SAN FRANCISCO PUBLIC LIBRARY
3 1223 03273 9840

5/S

San Francisco Public Library

Government Information Center
San Francisco Public Library
100 Larkin Street, 5th Floor
San Francisco, CA 94102

REFERENCE BOOK

Not to be taken from the Library

L500
R9
2001
no.17

CA
Legislature

HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

DOCUMENTS DEPT.

MAY 21 2001

SAN FRANCISCO
PUBLIC LIBRARY

STATE CAPITOL
ROOM 112
SACRAMENTO, CALIFORNIA

MONDAY, MAY 7, 2001
2:12 P.M.

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 112

SACRAMENTO, CALIFORNIA

MONDAY, MAY 7, 2001

2:12 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter

4 49386 SFPL: ECONO JRS
88 SFPL 07/07/03 7

3 1223 03273 9840

APPEARANCES

MEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

RYAN SHERMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

BRIAN E. CONLEY, Member
Board of Governors
California Community Colleges

SENATOR JOE DUNN

CHRISTOPHER CABALDON, Chancellor's Office
California Community Colleges

JONATHAN LIGHTMAN
Faculty Association of California Community Colleges

JUDITH MICHAELS
California Federation of Teachers

ANTONIA HERNANDEZ, Member
Board of Governors
California Community Colleges

SENATOR LIZ FIGUEROA

ANTONIA TRIGUEIRO
California Teachers Association

CLARISSA MARTINEZ-DE CASTRO
National Council of La Raza

ESAU RUIZ HERRERA, President
California Latino School Board Members Association

ROBERT L. MOORE, Member
Board of Governors
California Community Colleges

INDEX

Page

Proceedings 1

Governor's Appointees:

BRIAN E. CONLEY, Member
Board of Governors
California Community Colleges 1

Background and Experience 1

Questions by CHAIRMAN BURTON re:

Passage of Cal Grant Program 2

What Community Colleges Can Do to
Make Students Aware of the Availability
Of Cal Grants 3

Questions by SENATOR JOHNSON re:

What Have Rancho Santiago and Coast
Community Colleges Districts Done with
Respect to Cal Grants 4

Need for Districts to Highlight
Availability of Grants in Application
Process 5

Statement in Support by
SENATOR JOE DUNN 5

Questions by SENATOR KARNETTE re:

Solving Problem of Too Many
Part-time Instructors 6

Possible Collective Bargaining Issue 7

Questions of CHRISTOPHER CABALDON,
Chancellor's Office, by CHAIRMAN BURTON re:

Cause for Grants to Be Down 21,000 7

Efforts of Chancellor's Office to Let Students Know about Cal Grant Availability 8

Possibility of Community College Districts Contacting High School Principals and Counselors 9

Statements by SENATOR JOHNSON re:

Community College District Mailings 9

Possibility of Mailing to Graduating High School Seniors 10

Witnesses in Support:

JONATHAN LIGHTMAN
Faculty Association of California Community Colleges 10

JUDITH MICHAELS
California Federation of Teachers 10

Motion to Confirm 10

Committee Action 11

ANTONIA HERNANDEZ, Member
Board of Governors
California Community Colleges 11

Opening Statement 11

Questions by SENATOR JOHNSON re:

Appropriate Role of Community Colleges To Improve on Cal Grant Applications 12

Personal Attendance at Community College 12

Statement in Support by:
SENATOR LIZ FIGUEROA 12

Statements by SENATOR JOHNSON re:

Need for Community Colleges to Target Graduating High School Seniors 14

Witnesses in Support:

JONATHAN LIGHTMAN
Faculty Association of California
Community Colleges 14

TONI TRIGUEIRO
California Teachers Association 14

JUDITH MICHAELS
California Federation of Teachers 14

CLARISSA MARTINEZ-DE CASTRO
National Council of La Raza 14

ESAU HERRERA, President
California Latino School Board
Members Association 14

Questions by SENATOR KARNETTE re:

Uniformity in Numbering Courses for
Transfer Students 15

Motion to Confirm 16

Committee Action 16

ROBERT L. MOORE, Member
Board of Governors
California Community Colleges 16

Questions by CHAIRMAN BURTON re:

Cal Grants 16

Statements by SENATOR JOHNSON re:

Cal Grants and Use of Camera-ready
Copy for Advertising 17

Motion to Confirm 18

Committee Action 19

Termination of Proceedings 19

Certificate of Reporter 20

P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Governor's appointees, Brian Conley, Member, Board of Community Colleges Governors.

Sir, we have your statement for the record, so if you just want to highlight.

MR. CONLEY: Okay.

Number one, it's a pleasure and honor to be here today.

I have a short statement, probably two minutes, if you wouldn't mind me reading it? Would that be okay?

CHAIRMAN BURTON: Thank you.

MR. CONLEY: I'm a graduate of Sacramento City College, and I attribute my personal and professional success in education to the degree I received there at that institution. Though I went on to receive both a Bachelor's and Master's degree, I feel that the foundation I received at Sacramento City College prepared me to successfully address many of the challenges of professional and personal life.

For the past 25 years, I've taught at the community college level, and 9 of those years I chaired an academic department. In 1988, I was elected to the Board of Trustees of Rancho Santiago Community College District in Orange County. Last November, I was re-elected for the fourth term, receiving the largest amount of votes any trustee ever received in our district.

While on the Board, I served two terms as President, and participated in the Orange County Community

College Legislative Task Force, and I've been involved in numerous groups and public boards.

Governor Davis appointed me on the Board of Governors last October 30th. I presently chair Equity Diversity and Human Resources Committee and serve on the Educational Policies Committee, and the Legislative Committee, and Student Services Committee.

As a professor, administrator, and elected trustee in the community college district, I have a substantial understanding of higher education's strengths and weaknesses. My role as a community college trustee provides me with a keen appreciation of the rising public expectations for education at all levels, and the critical need for integration between K-12, two and four-year institutions of higher learning.

At both the state and the national level, I have advocated for community colleges that remain affordable, and sensitive to the diverse needs of our citizens, and responsive to the challenging needs -- excuse me -- changing needs of the business community.

These experiences have provided me with a portfolio of skills tailored specifically to enhance my role as a Board of Governors Member.

Thank you.

CHAIRMAN BURTON: Last year, the Legislature, on an unanimous 120 to nothing vote in both Houses, passed an historic Cal Grant Program to provide grants for students.

The number of new grants are down 21,000 from last year, which seems kinds of bizarre to me.

What can the community college do to communicate more systematically with the students who can benefit from this? What are they doing now? Does the system have plans to make college counseling a higher priority at individual campuses?

And also, the new program allows community college students to apply for Cal Grants up to September 2nd each year after the established March 2 deadline. What steps do you support or would you take to ensure that the community college students understand they can compete for these awards?

We went through all that stuff to see it drop down 21,000. It really makes us realize what a wonderful job we do.

MR. CONLEY: That's horrible. I agree.

I think counseling is the key there. Information needs to be out in terms of the local community college districts.

We as a Board of Governors certainly can force, impress upon the local districts to reach out to those students because those are the students that are really the ones that are going to benefit. Lower income students, the students that are diverse students, really need the Cal Grants and the Cal Grants have been excellent.

On the national level, we've had other types of grant programs, but because the tuition is so low in California, they haven't been as helpful as they possibly could, but the Cal Grants have been essential for those students.

I agree with you. I feel that they should be up rather than down. And I think we need to communicate and put

more energy into the counseling and the outreach programs.

CHAIRMAN BURTON: What are the Board of Governors and the Chancellor doing? Nothing?

MR. CONLEY: No, we set policy.

CHAIRMAN BURTON: How about they say, get this information.

What was the policy?

MR. CONLEY: I do not know, Senator Burton. I've been on the Board only a few months.

CHAIRMAN BURTON: Well, I think we set the policy by making it available. And not being critical of you, but they should have implemented it.

I think one of the things that we ought to do, and I'll talk to Senator O'Connell about this, that they clearly ought to make sure that the community colleges, through the Chancellor's office, lets people know this is going on.

SENATOR JOHNSON: Question.

CHAIRMAN BURTON: Senator Johnson.

SENATOR JOHNSON: I see Senator Dunn is here. I think he wanted to say some nice thing abouts the nominee.

You served on the Board of Rancho Santiago. What has the Rancho District done in the way of outreach?

You're a professor in the Coast Community College District. What's Coast Community College doing?

I mean, they send out a lot of catalogues. They sent out a lot of information to local residents. What have they been doing to emphasize the availability of Cal Grant loans?

MR. CONLEY: Senator, I think it still goes back to the counseling area. I can probably talk more about Rancho Santiago Community College District, being on the Board, rather than the Coast District, being a professor there.

At Rancho, we have a lot of outreach programs in the community. We introduce these to our non-credit students. We talk about those to the students and make those available as possible. We do a lot of counseling to let them see if they have full potential. It has to do with communication, and we have worked very hard in the Rancho District to do that.

SENATOR JOHNSON: I guess my question, following up on the Chairman's question, is, is there a role for the statewide system in encouraging local community college districts to be more aggressive in outreach?

I don't think it involves a lot of counselors or whatever. It would seem to me a good starting point would be in the materials that they're sending out in any event, that they highlight the availability of those grants --

MR. CONLEY: I agree with you totally.

SENATOR JOHNSON: -- in the application process.

MR. CONLEY: And the Board of Governors can make that a high priority, and I think it should be. I agree with you totally.

CHAIRMAN BURTON: Senator Dunn, did you want to speak?

SENATOR DUNN: Thank you, Senator Burton, and I'll make it very, very brief.

I have known Mr. Conley for many years in a

variety of capacities, professional, and he also happens to be a neighbor of mine in Santa Ana.

And I've witnessed his performance in a variety of different contexts and find them all to be stellar, whether it's community, neighborhood, his service for the community college district, et cetera.

And I certainly give my wholehearted support for Mr. Conley for this appointment.

CHAIRMAN BURTON: Senator Karnette.

Thank you, Senator Dunn.

SENATOR KARNETTE: I have a concern that I mentioned earlier, I think. I'm real concerned about the part-time instructors, and I think it would be much better for the students if we had more full-time instructors.

Could you tell us how you see solving that problem with getting more full-time instructors?

MR. CONLEY: With 1725, we have a 75 to 25 ratio; 75 full-time, 25 part-time.

The Board of Governors needs to monitor that more in terms of the local districts. Right now, the districts report to us when they have fallen below that, and then we take action. We need to be monitoring that ourselves to make sure that that is at least kept up with.

The 50 percent law that has 50 percent of the monies going into education, the problem there is, it does not include counselors and guidance people, and also librarians, too. So, that's an issue where they play against one another, and I think we need to resolve that at sometime in the future.

SENATOR KARNETTE: Would that get into collective bargaining at all?

MR. CONLEY: I think it -- I don't -- I would have to look that up. I think there's some questions both ways, because both of it is legislation. So, I don't think so, but I think it certainly would on a local district level, yes.

CHAIRMAN BURTON: Senator Knight.

Senator Romero, do you want, as a former community college trustee, to weigh in?

SENATOR ROMERO: No questions.

CHAIRMAN BURTON: Is there somebody here from the Chancellor's office?

MR. CABALDON: I'm Christopher Cabaldon. I'm with the Chancellor in the Chancellor's office.

CHAIRMAN BURTON: What have they done that caused more grants and more money to be 21,000 down from last year?

MR. CABALDON: Senator, our board has done a couple of things to --

CHAIRMAN BURTON: What has the Chancellor done? He's administrative. You don't need board action to do something that makes sense. That's why we put the Chancellor there.

MR. CABALDON: We've done two things. One is, we have implemented the most aggressive financial aid outreach campaign in our system's history. And the Board, also through the Governor's budget, has made a request for additional resources for financial aid outreach to get the word out.

CHAIRMAN BURTON: What do they do? How could you

have done the best there is and be down 21,000, when the student body's up, and there's more money than has been available before?

MR. CABALDON: Our expectation is that in the second draw down on the Cal Grants -- the September deadline is when most community college students will apply for those grants.

You'll recall that in the first round, in the entitlement phase, the eligibility criteria are a bit narrower than they were in the previous year, with the GPA requirement, and the age -- the one year out of high school eligibility criterion.

In the second round in September, when the competitive grants are made available, more of our students will be eligible, and we expect -- and that's the timeframe when most community college students apply for financial aid. So, we expect a significant increase in that period.

CHAIRMAN BURTON: The reason we're 21,000 down from last year is, we haven't got all of the precincts reported yet? Is that what you're telling me?

MR. CABALDON: Yes, sir.

CHAIRMAN BURTON: What is it that you've done to let people know that these exist?

MR. CABALDON: We've done outreach through advertising, through newspaper stories locally, also training our counselors and doing workshops on campuses so that students are aware of it, and try to match it with our existing aid programs.

CHAIRMAN BURTON: It seems like the high schools, where the kids probably don't even think they can afford to go to college, if they knew this was available, they might go.

MR. CABALDON: We are doing that to some extent in partnership with the Student Aid Commission and with that fund.

CHAIRMAN BURTON: What about the Student Aid Commission? In my judgment, it always left a fair amount to be desired.

I mean, how about each community college contacting either the principals or senior counselors in their area, making sure that the stuff's made available to them for their graduating seniors?

MR. CABALDON: Senator, I will be happy to contact each one of the community college presidents this week and ask them to do that.

CHAIRMAN BURTON: Yeah, I mean, I think that was something that we were all very proud of, something that basically went far beyond the Governor's original plan. And the reason it did was, as I said 120 to nothing vote, which meant it was going to happen with or without his signature.

And to find out it didn't do a hell of a lot really makes one proud to have been a Legislator and part of it.

Senator Johnson.

SENATOR JOHNSON: Just following up on the Chairman's comments, I would go back to these mailings that community college districts, to my knowledge, up and down the state send out these mailings.

And it would seem to me that it would make a lot of sense to maybe cut back on some of those broad, general mailings and try and mail to graduating high school seniors, and make them aware of the existence of this opportunity for them.

I mean, in the past, and I don't know if they still do it, but, you know, the armed forces were able to get lists of graduating seniors and mail about the great opportunities that the U.S. Army could provide to them.

And it just seems to me that the community colleges ought to be making them aware of the opportunities for financial assistance and getting a college education.

CHAIRMAN BURTON: Witnesses in support, briefly.

MR. LIGHTMAN: Jonathan Lightman on behalf of the Faculty Association of California Community Colleges in support of the nomination.

MS. MICHAELS: Judith Michaels, California Federation of Teachers in support of the nomination.

CHAIRMAN BURTON: Witnesses in opposition?

SENATOR KARNETTE: Move it.

CHAIRMAN BURTON: Moved by Senator Karnette. Secretary, call the roll.

First, do you have your family here?

MR. CONLEY: Yes, I have my daughter, Alison Conley.

CHAIRMAN BURTON: Is that the one that was hiding back there?

MR. CONLEY: Alison is an intern. She's a high school student intern with Lou Correa's office, and she was a

former U.S. Senate page for California. She was appointed by Senator Finestein last year.

CHAIRMAN BURTON: If you're really lucky, you could get into office, pass a bill that nobody takes advantage of.

[Laughter.]

CHAIRMAN BURTON: Something really to look forward to.

Call the roll.

SECRETARY WEBB: Senator Karnette.

SENATOR KARNETTE: Aye.

SECRETARY WEBB: Karnette Aye. Senator Knight.

SENATOR KNIGHT: Aye.

SECRETARY WEBB: Knight Aye. Senator Romero.

SENATOR ROMERO: Aye.

SECRETARY WEBB: Romero Aye. Senator Johnson.

SENATOR JOHNSON: Aye.

SECRETARY WEBB: Johnson Aye. Senator Burton.

CHAIRMAN BURTON: Aye.

SECRETARY WEBB: Burton Aye. Five to zero.

CHAIRMAN BURTON: Congratulations, sir.

MR. CONLEY: Thank you very much.

CHAIRMAN BURTON: Next up, Antonia Hernandez, Board of Governors, California Community Colleges.

MS. HERNANDEZ: Good afternoon. My name is Antonia Hernandez.

I have submitted a document that outlines my views, and I'd be more than happy to answer any questions you

might have.

SENATOR JOHNSON: You've been following, I assume, this conversation that's been going on.

MS. HERNANDEZ: Yes.

SENATOR JOHNSON: I wonder if you have any thoughts about the appropriate role of the community college in trying to improve on the numbers that the Chairman referred to with respect to applications for Cal Grants?

MS. HERNANDEZ: Actually, I do believe that there are other ways to outreach to the student community.

I've only attended one meeting, and I intend to go back and inquire about other means of communicating with students.

SENATOR JOHNSON: Did you attend California community college?

MS. HERNANDEZ: Yes, I am. I'm a graduate of East Los Angeles Community College.

I have two nieces who presently go to Pasadena City College. And I have a sister who teaches part-time at a community college.

SENATOR JOHNSON: Questions from Members?

SENATOR KNIGHT: No more questions about the telephones.

SENATOR JOHNSON: Moving right along, witnesses in support.

Wait a minute. We have a Senator who wants to say something.

SENATOR FIGUEROA: Good afternoon, Senators. It's

my pleasure to be here in support of my friend and colleague, Antonia Hernandez.

After listening to the discussion that you had previously with Mr. Conley, I knew that Ms. Hernandez would do very well in implementing the Cal Grants Program and finding a solution to the problem we're currently facing. As much as we worked to make sure that there was passage of that bill, it's disheartening to know the current situation.

As President of MALDEF, she deals in the area of education. She's done it very well, representing 35 Latinos throughout the United States. I know that so many of our population obtains their education at the community college level.

I respectfully request that you consider Antonia Hernandez as a Community College Board Member. She would be an excellent candidate and choice.

SENATOR JOHNSON: Thank you.

I just would, once again, commend to your attention that all of these community colleges send out huge numbers of catalogues and information to the community at large.

I get them from the community college district in which I reside. The likelihood that I'm going to take -- well, actually, my wife is taking some courses -- but the likelihood that I'm going to take one of these classes is fairly remote. And yet, you know, a number of times each year I receive these.

It seems to me, taking some of that money and applying it to even repeated, very specifically targeted

mailings to graduating high school seniors makes a lot more sense.

Okay, if we could hear from the witnesses in favor.

MR. LIGHTMAN: Jonathan Lightman on behalf of the Faculty Association of California Community Colleges in support of the nomination.

MS. TRIGUEIRO: Toni Trigueiro, California Teachers Association.

Given the conversation that we've had here, we're delighted to have this nominee. Hope you all support her. Thank you very much.

MS. MICHAELS: Judith Michaels, California Federation of Teachers in support of the nomination.

MS. MARTINEZ-DE CASTRO: Clarissa Martinez with the National Council of La Raza, a national Latino civil rights organization, in favor of the nomination.

MR. HERRERA: Good afternoon, Senators. My name is Esau Herrera. I an elected school board member from Alum Rock Elementary School District in San Jose. Also served five years on the high school board of trustees, East Side High School District, where many of our students attended community college locally. I'm also President of the California Latino School Board Members Association.

I'm here to express our strong support for an outstanding role model to all our kids, to all Californians, the distinguished woman to my left. We're strongly supporting her nomination.

SENATOR JOHNSON: Any witnesses in opposition? None appearing.

Ms. Hernandez, have you family members here?

MS. HERNANDEZ: No, they're all in school.

[Laughter.]

SENATOR JOHNSON: That's a very good answer.

What's the will of the Committee?

SENATOR JOHNSON: Question from Senator Karnette.

SENATOR KARNETTE: I just wanted to ask one thing that has to do with the transferring of students to CSU and UC, and the problem of students not being able to know what to take for which school.

I'm sure with all the people in your family who are in the teaching business that you're aware of these problems.

Is there anything that you see that you're going to work on in order to make it easier for students to know that History 101 is the same in every college, and they can transfer when they feel so inclined, even after they get out of junior college?

MS. HERNANDEZ: The first meeting I attended a month-and-a-half ago, this issue came up. And that was one of the issues that I brought up, the issue of uniformity of numbering of classes so that it's the same for all colleges, and that all colleges, community colleges, you know have the same classes, the same numbering of classes, so it's easier for students. And also, the availability of the classes that they

can take so they can transfer.

And in my statement, that's one of the six issues that I'm going to put a lot of attention on.

SENATOR KARNETTE: Thank you.

Move it.

CHAIRMAN BURTON: Moved by Senator Karnette. Call the roll.

SECRETARY WEBB: Senator Karnette.

SENATOR KARNETTE: Aye.

SECRETARY WEBB: Karnette Aye. Senator Knight.

SENATOR KNIGHT: Aye.

SECRETARY WEBB: Knight Aye. Senator Johnson.

SENATOR JOHNSON: Aye.

SECRETARY WEBB: Johnson Aye. Senator Burton.

CHAIRMAN BURTON: Aye.

SECRETARY WEBB: Burton Aye.

[Thereafter, SENATOR ROMERO's Aye vote was added, making the final vote five to zero.]

CHAIRMAN BURTON: Congratulations to you.

MS. HERNANDEZ: Thank you.

CHAIRMAN BURTON: Robert Moore, Community College Board.

Do you want to cut to the chase on Cal Grants?

MR. MOORE: On the issue of Cal Grants, it's my understanding that the Chancellor's office has been diligently sending out information to all available sources that could use it.

And the $11 million that's in the budget is there for the purpose of enabling people on all the campuses to be better positioned to work with these students.

Apparently, there's only been one administrator in the system that dealt with Cal Grants, and this money will enable far more people to participate in making sure these students are being served. It is a high priority for the Board.

CHAIRMAN BURTON: I don't know if you have to deal with it in order to just get the information out and say -- who is that guy who advertises on t.v., free money? You know that ad.

And I would think that an important thing also is not just the students at the community college level, or in the community college system, but high school students, especially in lower income areas.

And I would hope, and I think the person from the Chancellor's office would get hold of the presidents, have them, you know, make it out to the various school principals, and let them make it available.

Any other questions, Members of the Committee? We beat that horse to death.

SENATOR JOHNSON: Yes, we have beaten it to death, but I'm going to give it one more kick.

It seems to me so utterly simple to design camera-ready copy. Spend a little money. You don't need to spend $11 million. Spend a little money for camera-ready copy and send it around to every community college president in the state, every community college district in the state, and say,

you know, we urge you to consider putting this in the next piece of mail that you put out. We encourage you to consider obtaining lists of graduating high school seniors and see that some version of this is sent to them. And here it is, camera-ready.

It's simple, and it doesn't require a lot of counselors running around, having meetings, and discussing outreach, and so on. Just, put the damn mail out.

CHAIRMAN BURTON: Any other questions, Members of the Committee.

SENATOR JOHNSON: Move.

CHAIRMAN BURTON: Moved by Senator Johnson. Call the roll.

Do you have family here?

MR. MOORE: No.

CHAIRMAN BURTON: Any opposition? Hearing none, support will be duly acknowledged.

Call the roll.

SECRETARY WEBB: Senator Karnette. Senator Knight.

SENATOR KNIGHT: Aye.

SECRETARY WEBB: Knight Aye. Senator Johnson.

SENATOR JOHNSON: Aye.

SECRETARY WEBB: Johnson Aye. Senator Burton.

CHAIRMAN BURTON: Aye.

Without objection, all Members on the roll will be recorded as Aye.

[Thereupon SENATORS KARNETTE

and ROMERO were recorded as Aye votes, making the final vote five to zero.]

CHAIRMAN BURTON: Thank you. Congratulations.

MR. MOORE: Thank you.

[Thereupon this portion of the Senate Rules Committee hearing was terminated at approximately. 2:44 P.M.]

--ooOoo--

CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of May, 2001.

EVELYN J. MIZAK
Shorthand Reporter

426-R
Additional copies of this publication may be purchased for $3.00 per copy
(includes shipping and handling) plus current California sales tax.

Senate Publications
1020 N Street, Room B-53
Sacramento, CA 95814
(916) 327-2155

Make checks payable to SENATE RULES COMMITTEE.
Please include Stock Number 426-R when ordering.

_500
R9
2001
no. 18

_CA
= Legislature

HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

DOCUMENTS DEPT.

JUL 18 2001

SAN FRANCISCO
PUBLIC LIBRARY

STATE CAPITOL
ROOM 3191
SACRAMENTO, CALIFORNIA

MONDAY, MAY14, 2001
1:37 P.M.

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 3191

SACRAMENTO, CALIFORNIA

MONDAY, MAY 14, 2001

1:37 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter

APPEARANCES

MEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

MEMBERS ABSENT

SENATOR ROSS JOHNSON, Vice Chair

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

RYAN SHERMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

DEMETRIOS A. BOUTRIS
Commissioner of Corporations

PERRY KENNY
California State Employees Association

JAMES W. HAMLET, Warden
Correctional Training Facility, Soledad

SENATOR BRUCE McPHERSON

CONRAD APONTE, JR., Chairperson
CAC, Salinas Valley State Prison and Correctional Training Facility, Soledad

RICHARD ORTIZ, Mayor
City of Soledad

JERRY SMITH, Mayor
City of Seaside

MIKE BIGGS, Local Chapter President
CCPOA, Soledad

ANTONIO TONY VALDEZ, Past Chapter President
Chapter 29, CCPOA

GERALD HENARES, Chief Steward
CSEA, Soledad

ANDY HSIA-CORON, Chair
Bargaining Unit 3, SEIU

BARBARA POWERS, Member
Correctional Institutions Committee
CSEA

MARC BATISTA, Officer Member
Correctional Institutions Committee
CSEA

GERALD ATCHLEY, Supervisor
Correctional Education Program, CTF

JOHN LAWSON, Member
California Transportation Commission

SENATOR JIM COSTA

KIRK BREED
Beneto Inc.

KIRK LINDSEY, Member
California Transportation Commission

SENATOR DICK MONTEITH

MEL ASSAGAI
California Trucking Association

DIANE McKENNA, Member
California Transportation Commission

SENATOR BYRON SHER

WILL KEMPTON
Santa Clara Valley Transportation Authority

INDEX

Page

Proceedings 1

Governor's Appointees:

DEMETRIOS A. BOUTRIS
Commissioner of Corporations 1

Background and Goals 1

Questions by CHAIRMAN BURTON re:

Excess Fund Balance in State Corporations Fund 2

Plans for Fund Balance 2

Amount of Excess 3

Questions by SENATOR KNIGHT re:

Trend of Businesses Leaving State 3

Questions by SENATOR ROMERO re:

Pay Day Lenders and Support for Perata Bill 4

Questions by SENATOR KARNETTE re:

Amount in Corporations Fund 5

Ability to Use the Excess Money 5

Witness in Support:

PERRY KENNY
California State Employees Association 6

Motion to Confirm 6

Committee Action 6

JAMES W. HAMLET, Warden
Correctional Training Facility, Soledad 7

Introduction and Support by
SENATOR BRUCE McPHERSON 7

Opening Statement 7

Questions by SENATOR KNIGHT re:

Capacity of Facility 8

Questions by CHAIRMAN BURTON re:

Housing of Inmates above Capacity 8

Questions by SENATOR KNIGHT re:

Two per Cell Housing 9

Questions by CHAIRMAN BURTON re:

Housing of Excess Capacity Prisoners 9

Use of Day Rooms for Housing Inmates 10

Questions by SENATOR ROMERO re:

Education Programs Offered and
Notification of Programs to Inmates 10

Questions by SENATOR KARNETTE re:

Sufficiency of Teacher Staffing 11

Questions by CHAIRMAN BURTON re:

Other Housing for Excess Capacity
Prisoners 11

Use of Gym for Housing 12

Possibility of Using Portable Cells 12

Witnesses in Support:

PERRY KENNY 13

CONRAD APONTE, JR., Chairperson
CAC, Salinas Valley State Prison and
Correctional Training Facility, Soledad 13

RICHARD ORTIZ, Mayor
City of Soledad 13

JERRY SMITH, Mayor
City of Seaside 14

MIKE BIGGS, Chapter President
CCPOA, Soledad 15

ANTONIO TONY VALDEZ, Past Chapter President
Chapter 29, CCPOA 15

GERALD HENARES, Chief Steward
CSEA, Soledad 16

Witnesses in Opposition:

ANDY HSIA-CORON, Chair
Bargaining Unit 3, SEIU Local 1000, CSEA 16

BARBARA POWERS, Member
Correctional Institution Committee, CSEA 17

MARC BATISTA, Officer Member
Correctional Institution Committee, CSEA 19

Rebuttal by MR. HAMLET 21

Response by MR. BATISTA 21

Questions by CHAIRMAN BURTON re:

Warden's Response to Group's Concerns 22

Availability of Telephones for
Teachers 22

Response by MS. POWERS 23

Response by MR. HSIA-CORON 25

Possibility of Giving Teachers
Dial-out Codes for Telephones 26

Inspector General Looking into
Allegations of Retaliation 27

Suggestion by CHAIRMAN BURTON re:

Committee Move Confirmation to Senate
Floor without Recommendation 27

Rebuttal Witnesses in Support:

GERALD ATCHLEY, Supervisor
Correctional Education Program, CTF 28

Telephone Issue 29

Retaliation Issue 29

MIKE BIGGS 30

GERALD HENARES 30

Motion to Move Confirmation to Senate
Floor without Recommendation 31

Committee Action 31

Request by CHAIRMAN BURTON re:

Warden Submit Report on Telephone
Problem and Other Problems 32

JOHN ROBERT LAWSON, Member
California Transportation Commission 32

Introduction and Support by
SENATOR JIM COSTA 32

Opening Statement 33

Questions by CHAIRMAN BURTON re:

Discussion on Financing Rebuilding of
Bay Bridge 34

Questions by SENATOR KNIGHT re:

Need to Widen Highways 138, 58 and 395 35

Plans of Commission 35

Governor's Congestion Relief Program 36

Palmdale International Airport 36

Questions by SENATOR ROMERO re:

View on Completion of Highway 710 Project 38

Look at Alternatives to Completion 39

Questions by SENATOR KARNETTE re:

State's Role in Monitoring Locals 40

Witness in Support:

KIRK BREED
Beneto Tankline 41

Motion to Confirm 41

Committee Action 41

KIRK LINDSEY, Member
California Transportation Commission 41

Introduction and Support by
SENATOR JIM COSTA, and on behalf of
CONGRESSMAN GARY CONDIT 41

Opening Statement 42

Questions by SENATOR ROMERO re:

Relationship with Los Angeles County Metropolitan Transportation Authority 42

MTA's Alleged Anti-union Tactics 43

Statement in Support by
SENATOR DICK MONTEITH 43

Questions by SENATOR KARNETTE re:

Ways Trucking Industry Could Relieve California's Congestion Problem 44

Questions by SENATOR KNIGHT re:

Cooperation during '84 Olympics Versus Today 46

Highways 138, 58, 395 47

Suggestions to Move STIP Projects Forward 48

Motion to Confirm 49

Witness in Support:

MEL ASSAGAI
California Trucking Association 49

Committee Action 50

DIANE McKENNA, Member
California Transportation Commission 50

Introduction and Support by
SENATOR BYRON SHER 50

Opening Statement 51

Questions by SENATOR KNIGHT re:

Highways 138, 58, 395 52

Questions by CHAIRMAN BURTON re:

Thoughts on Bay Bridge 52

Extension of Tolls 52

Questions by SENATOR ROMERO re:

Short-term and Long-term Goals 54

Questions by SENATOR KARNETTE re:

Expiring Sales Taxes 56

California's Share of Federal Transportation Funding 57

Witness in Support:

WILL KEMPTON
Santa Clara Valley Transportation Authority 57

Motion to Confirm 58

Questions by CHAIRMAN BURTON re:

Cherry Orchards in Sunnyvale 58

Committee Action 60

Termination of Proceedings 60

Certificate of Reporter 61

P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: First appointee, Demetrios Boutris, our Commissioner of Corporations.

MR. BOUTRIS: Good morning, Mr. Chairman, good afternoon.

CHAIRMAN BURTON: Good afternoon, Commissioner.

MR. BOUTRIS: Mr. Chairman, Committee Members, I'll keep this very brief. My name is Demetrios Boutris. I'm honored to appear before you and to share my thoughts about the Department of Corporations.

As you well know, the Department has regulatory licensing and enforcement authority over a wide variety of business transactions that impact the lives of Californians. It is the last line of defense for many of the most significant financial transactions that Californians make for mortgages, to escrows, to consumer loans, to investments and retirement plans.

If I am confirmed as Commissioner, the Department will have two clear goals. First, protecting California's investors while not stifling business activity with unnecessary red tape, and reaching out to seniors and under-represented communities to help open the door to financial security.

We have had the opportunity to meet with Committee Members and their staff and to answer some of their questions. I hope to do so again in the future.

I also will keep my remarks very brief. I ask that my previously submitted written statement be entered into

the record.

CHAIRMAN BURTON: Without objection.

MR. BOUTRIS: And I am happy to answer any of the Committee's questions.

CHAIRMAN BURTON: Thank you, Commissioner.

Right now you have an excess fund balance which you inherited in the Corporation Fund, which I guess was due to certain filing fees that were effective July 1st, 1998. Last year during the budget hearings -- and this was all before you were there; in fact, being there with short money, we probably want to have you keep the money.

Is that money, money that the General Fund can steal?

MR. BOUTRIS: That's not my understanding, Senator.

CHAIRMAN BURTON: It's got to stay there or nothing?

MR. BOUTRIS: Yes, sir.

CHAIRMAN BURTON: Well, then what plans do you have, or have you had a chance since you've been there to figure out how you're going to decrease fees in the future?

MR. BOUTRIS: Thank you for the opportunity to address that question, Senator. I know a number of Senators and Members from the other body have expressed the same question.

We do have a very large fund balance in the State Corporations Fund. This morning, we have forwarded a specific proposal to the Senate Budget Subcommittee, Sub 4, Senator Polanco, to reduce filing fees under the securities law

in a reasonable and equitable manner. We believe -- we've given four alternatives, and I would ask Mr. Kenneth there, our Chief Deputy, to give copies to the Members if they wish copies.

My understanding is that the Budget Subcommittee will review this proposal during the May Revise and reach its decisions.

We want to emphasize that the large fund balance that we do have in the fund only relates to the Investment Program and not to the Lender Fiduciary Program. We have outlined for the Senators in Sub 4, four different options.

CHAIRMAN BURTON: How much money is their surplus?

MR. BOUTRIS: Approximately $24 million.

CHAIRMAN BURTON: We have this for the record.

Senator Knight.

SENATOR KNIGHT: Thank you, Mr. Chairman.

How are you today?

MR. BOUTRIS: Good, thank you, Senator.

SENATOR KNIGHT: Good.

That 24 million, that won't be enough to keep the lights on; will it.

[Laughter.]

MR. BOUTRIS: Probably not, Senator, but it is special fund.

SENATOR KNIGHT: In your opinion, as you look at business around the state, and the effects of various legislative actions on business, do you see a trend of business leaving or coming into the State of California?

MR. BOUTRIS: So far, Senator, what I've seen from the Technology Trade and Commerce Department, Secretary Hatamiya's numbers show that no businesses left California while the Governor has been at the helm. I don't see a trend.

SENATOR KNIGHT: None? No business? None of the businesses have left California?

CHAIRMAN BURTON: There was a dry cleaner in my neighborhood that moved.

[Laughter.]

MR. BOUTRIS: I would modify that to be no significant businesses, but I believe Secretary Hatamiya issued a report in the past several weeks to that effect, sir.

SENATOR KNIGHT: Thank you.

MR. BOUTRIS: Thank you, Senator.

CHAIRMAN BURTON: Senator Romero.

SENATOR ROMERO: Thank you.

There's an article in today's Los Angeles Times regarding pay day lenders. The L.A. Times refers to them as legal loan sharks. There are more of these than there are McDonald's and Burger Kings in California. There's a great number in the district that I represent in East Los Angeles.

As Commissioner of the Department of Corporations, can you tell me if you support the Perata bill that the Times does address, and what you can do as Commissioner to protect low-income consumers from these types of companies?

MR. BOUTRIS: I want to thank the Senator for that important question. Of course, we discussed it with your staff and yourself just last week.

Pay day lending is a difficult issue on both sides of the aisle. I have to say, I understand your concerns, particularly in your community.

The check cashers that make pay day loans are exempt from the laws of my Department. They're subject to the oversight of the Attorney General.

But more importantly, our Department will continue to provide technical advice to yourself and any other Member of the Legislature to ensure that an appropriate regulatory framework for this industry exists out there. I know that a number of bills are moving through this body and the other body. We want to be open to technical assistance.

We have assisted in the past, drafting various consumer protections, including prohibiting unfair and deceptive practices and enhancing disclosure with respect to legislation authored by Senator Perata.

This, as you know, is a matter of personal concern to me, even beyond the jurisdiction of the Department. So, if we can be helpful to you and the other Senators with technical assistance, we'll be glad to do that.

SENATOR ROMERO: Thank you.

CHAIRMAN BURTON: Senator Karnette.

SENATOR KARNETTE: When you were talking about the money you have, is there any way that that excess funding -- how many million did you say?

MR. BOUTRIS: I believe about 24, Senator.

SENATOR KARNETTE: Is there any way that money could be used for something, or given to some agency or some

group so that that would release other monies that they could use in other ways?

In other words, you get what I'm saying, to help somebody get sort of a transfer going here.

MR. BOUTRIS: Thank you for that question, Senator.

The Department of Finance has asked that question several ways to both their lawyers and in my previous capacity. I don't believe there is a way to do that. But, I'd certainly be open to that if the Department of Finance --

SENATOR KARNETTE: Think creatively.

MR. BOUTRIS: Yes, ma'am.

CHAIRMAN BURTON: Witnesses in support.

MR. KENNY: Perry Kenny, California State Employees Association, also a corporation. We stand in support of this nomination.

CHAIRMAN BURTON: Any witnesses in opposition? Hearing none, I'll move the nomination.

Secretary, call the roll.

SECRETARY WEBB: Senator Karnette.

SENATOR KARNETTE: Aye.

SECRETARY WEBB: Karnette Aye. Senator Knight.

SENATOR KNIGHT: Aye.

SECRETARY WEBB: Knight Aye. Senator Romero.

SENATOR ROMERO: Aye.

SECRETARY WEBB: Romero Aye. Senator Burton.

CHAIRMAN BURTON: Aye.

SECRETARY WEBB: Burton Aye. Four to zero.

CHAIRMAN BURTON: Congratulations.

MR. BOUTRIS: Thank you, Senator. Thank you for your time.

CHAIRMAN BURTON: James Hamlet, Warden, Correctional Training Facility, Soledad.

Senator McPherson.

SENATOR McPHERSON: Thank you, Mr. Chairman and Members. My name is Senator McPherson.

I'm here to speak on behalf of Mr. Jim Hamlet to be Warden of the Correctional Training Facility at Soledad.

As you are aware, Mr. Hamlet appeared before this Committee two weeks ago, and I would like to reintroduce him to the Committee.

He has spent a lifetime in Corrections, or a life in Corrections, his adult life in Corrections, and has very good standing in the community. He has expressed to me his desire toward making the Correctional Training Facility the best it can be.

I know he is committed to the task and the job that's before him. He is highly respected within the facility itself and within the organization itself, as well as in the community. He is held in very high regard and esteem, and I recommend that he be confirmed by the Committee.

CHAIRMAN BURTON: Thank you.

Warden.

MR. HAMLET: Mr. Chairman and Members, I would like to thank the Committee for your indulgence in reconsidering my nomination as Warden of the Correctional Training Facility.

I would also like to state that I meant no disrespect to the Committee in my earlier responses.

I'd also like to express my thanks to Senator McPherson for his continuing support of me and the institution throughout this process, and for him being here today.

CHAIRMAN BURTON: Well, actually we didn't reconsider it. You were never denied confirmation. We just sort of put the hearing over.

I don't have any questions.

Senator Knight.

SENATOR KNIGHT: Just one.

In looking at the figures, the facility looks like it's about 214 percent of capacity?

MR. HAMLET: Correct.

SENATOR KNIGHT: Is that based on one person per cell or two?

MR. HAMLET: Two people, two persons per cell.

SENATOR KNIGHT: Thank you.

CHAIRMAN BURTON: It's two people --

MR. HAMLET: Two persons per cell.

CHAIRMAN BURTON: And it's 200 percent --

MR. HAMLET: Two hundred fourteen percent.

CHAIRMAN BURTON: -- even at two people per cell?

MR. HAMLET: Yes.

CHAIRMAN BURTON: So what do you do with the other people? Where are the other people?

MR. HAMLET: No, we were designed for 3,000, and we have 7,000 out there.

CHAIRMAN BURTON: I'm just trying to understand this.

MR. HAMLET: Maybe I misunderstood the question, sir.

CHAIRMAN BURTON: You're two persons per cell; right?

MR. HAMLET: Correct, sir.

CHAIRMAN BURTON: And even with two per cell, two people in a cell, you're at 200 percent?

MR. HAMLET: Of the original design.

CHAIRMAN BURTON: So, where are those other people, or was it designed for one --

MR. HAMLET: It was designed for just one.

CHAIRMAN BURTON: One inmate, I see. So, everybody is in a cell?

MR. HAMLET: Yes.

CHAIRMAN BURTON: Go ahead, Senator Knight.

SENATOR KNIGHT: So, if the design capacity was 3200, and you've got 7,000 in there, that's with two per cell, and you're 14 percent over with two per cell. So, that's not too bad, huh?

CHAIRMAN BURTON: It ain't good.

SENATOR KNIGHT: Well, two people in a cell?

CHAIRMAN BURTON: If they bunch up, there's trouble.

Where's the other 14 percent? In the dormitories?

MR. HAMLET: Yes. We have some emergency beds

and also in our day rooms.

CHAIRMAN BURTON: In what kind of rooms?

MR. HAMLET: In day rooms. We have in Central Facility, we have approximately 20 inmates in each of our day rooms. That's part of our regular wings.

CHAIRMAN BURTON: And then, after they get up, the beds are moved, and the inmates go into the day rooms, or what?

MR. HAMLET: No, the day rooms are closed as far as day room activities. It's just for cell living.

CHAIRMAN BURTON: That's not too good for morale in the prison; is it?

MR. HAMLET: No, sir.

CHAIRMAN BURTON: Senator Romero.

SENATOR ROMERO: Thank you.

Can you describe some of the education programs that you offer, and are these classes filled to capacity? What's being done to let the inmates know about these types of classes?

MR. HAMLET: We have waiting lists for all our classes.

The type of classes we have, vocational programs range from masonry, computer refurbishing, landscaping, upholstery -- we have about 19 various programs -- horticulture landscaping, and there is a waiting list for those, anywhere from 30 up to 140. The 140 waiting list is for the computer refurbishing.

SENATOR ROMERO: How do the inmates know about

the classes?

MR. HAMLET: We put them on through the inmate television. We have a cable system throughout the institution.

SENATOR ROMERO: Thank you.

CHAIRMAN BURTON: Senator Karnette.

SENATOR KARNETTE: Education, on the education question, do you always have enough teachers, or do you need teachers?

MR. HAMLET: We haven't had a problem recruiting teachers. We have a problem recruiting other staff, but not teachers.

SENATOR KARNETTE: How many teachers do you have?

MR. HAMLET: Right now, we have approximately 60.

SENATOR KARNETTE: And they're full-time everyday?

MR. HAMLET: Yes.

CHAIRMAN BURTON: Where else could you put the 14 percent? Fourteen percent is how many people? How many have you got in the day rooms, roughly?

MR. HAMLET: We have 20 in the day rooms, each day room.

CHAIRMAN BURTON: How many day rooms?

MR. HAMLET: We have five.

CHAIRMAN BURTON: So, you're a hundred over.

MR. HAMLET: One hundred, yes.

CHAIRMAN BURTON: Is there anything you could do with them besides closing down the day rooms?

MR. HAMLET: No. We're at capacity. We've used

every bit of the institution that we could for housing. We're in the gyms, and we're capacity in our gyms.

CHAIRMAN BURTON: And so the gym is closed, too?

MR. HAMLET: Yes, sir.

CHAIRMAN BURTON: So, anything that would allow the inmates to either let off nonviolent steam, shall we say, or just kind of do something, that's all gone?

MR. HAMLET: No, we let them -- they go to the yard. We have activities, programmed activities out in the yard. North Facility, we have two yards. At Central Facility, we have one large yard, and they go out there.

We do have physical education teachers that do put on programs, activities.

CHAIRMAN BURTON: Does it make any sense to do like they do in schools, where they have portable classrooms? You could have like portable cells or something, so that these other activities that are probably good for the morale of the prisoners, therefore good for their behavior, would be available to them? That doesn't make sense, or what?

MR. HAMLET: We really --

CHAIRMAN BURTON: I know it's not your call anyway, but what do you think?

MR. HAMLET: Given the physical plant of our facility with its age, it wouldn't really work for us. Just not enough space.

CHAIRMAN BURTON: Are there any new witnesses in support that weren't here last time? Were you here last time? You were here but never got heard.

Witnesses in support, briefly, come on up.

MR. KENNY: Mr. Chairman, I wanted to speak on behalf of the California State Employees Association.

It has not in fact taken an official position, but I know Mr. Hamlet when I worked at Soledad actually years ago.

CHAIRMAN BURTON: You're in support.

MR. KENNY: In support.

CHAIRMAN BURTON: Next.

MR. APONTE: Senators, Committee Members, I'm in support of Mr. Hamlet to be confirmed today. I know him. I'm Conrad Aponte, Junior. I'm the Chairperson for the CAC for both prisons, Salinas Valley State Prison and Correctional Training Facility.

I've known this man for a long time. He is very well qualified to be a warden. He's very well liked and respected both by his staff and the community.

As such, I would like for the Committee to take in consideration his being confirmed today. Thank you very much.

CHAIRMAN BURTON: Thank you, sir.

MAYOR ORTIZ: Senator Burton, I'm Richard Ortiz. I'm with the City of Soledad. I'm the Mayor of the City of Soledad.

I'm here in support of Mr. Hamlet for Warden. I've seen him come up the ranks within the Department of Corrections, and being through the business management of it, he held the facility in the black, which should be something to

think about because he knows what budgets are. And with the restraints that we have in today in regards to the spendings with the state in Corrections, he knows the system, and he's done very well for CTF. And the City of Soledad is in support of his nomination.

CHAIRMAN BURTON: Thank you, Mr. Mayor.

Yes, sir.

MAYOR SMITH: Senator McPherson [sic] my name is Jerry Smith. I'm the Mayor of the City of Seaside. I'm also in support of Mr. Hamlet for Warden.

CHAIRMAN BURTON: How many people in Seaside now?

MAYOR SMITH: Thirty-two thousand, sir. We dropped a little from Fort Ord closure, which was 36,700. We're now about 32,000.

I think we're looking at the rehabilitation of Fort Ord. We hope to be able to bring that about as far as affordable housing and job creation.

Mr. Hamlet has added to that, inasmuch as the inmate work crews have come to the City of Seaside, assist us in terms of renovating some of the properties. Just recently Mr. Hamlet allowed us to take care of some weed abatement, trash abatement. He saved the city in an area of $4,000 in one week.

We look for his support. He's not only rendered that to the City of Seaside, but as you know, the Monterey Peninsula represents 12 different cities, ranging about 450,000 people. The Correctional Training Facility has been instrumental in terms of cost savings to all the jurisdictions.

CHAIRMAN BURTON: Do they get paid for that or

what? The inmates.

MR. HAMLET: They just get their regular pay number.

CHAIRMAN BURTON: Pardon me?

MR. HAMLET: They get a regular pay number, sir.

CHAIRMAN BURTON: Is that voluntary or conscript?

MR. HAMLET: No, actually they volunteer for it.

CHAIRMAN BURTON: So, it's fully voluntary just to get out and get a chance to escape, okay.

Thank you, Mr. Mayor.

[Laughter.]

MAYOR SMITH: Thank you very much.

MR. BIGGS: My name is Mike Biggs. I'm the current CCPOA local Chapter President for Soledad.

I'm here today in support of Mr. Hamlet's confirmation as the Warden. In my past 12 years there, I've had many dealings with Mr. Hamlet. And in every dealing, I can say that I've dealt with an honest and fair person. I can tell you that we might not always disagreed -- or agreed on issues, but none of the disagreements were ever taken personally in retaliations.

CHAIRMAN BURTON: You're in support?

MR. BIGGS: Yes, sir.

MR. VALDEZ: My name is Antonio Tony Valdez, and I am the Chapter President, or past Chapter President for Chapter 29.

Ladies and gentlemen of this panel, if anybody knows budgetary constraints it's Mr. Hamlet. He does an

excellent job with the money he's appropriated. His leadership is clearly noted, as you can see by the people in attendance.

So, I clearly support Mr. Hamlet's nomination.

MR. HENARES: Gerald Henares, teacher at Soledad, CTF. Also, I'm the chief steward for CSEA at Soledad.

As a teacher, I'm on the Recruitment Teaching Committee. We do three to four job fairs, and Mr. Hamlet's been very supportive of the people we recruited and brought in, and got them on board extremely fast.

I am in complete support with him and hope to continue working with him.

CHAIRMAN BURTON: Thank you.

Witnesses in opposition?

Move the nomination to the Floor.

Excuse me.

MR. HSIA-CORON: Good afternoon. My name is Andy Hsia-Coron. I'm the Chair of Bargaining Unit 3, which represents the teachers and librarians in state service for SEIU Local 1000, CSEA.

We are not in favor of confirmation of Warden Hamlet for several reasons. One, basically, under his long administration, education has been diminished considerably during those years, where we went from close to 120 teachers to less than 50 teachers.

The Department's operations manual requires our Head of Education to be on his Executive Committee, and he is not.

And in the recent Western Association of Schools

and Colleges accreditation, the group coming around expressed their observation that there was little support from the upper administration for our education programs.

I shared these observations with your staff on May 2nd.

On May 3rd, Ken Hurdle, the ombudsman from the Department of Corrections, called me to go over my issues, and I raised them.

And then on May 4th, I went into the institution, and I was served up with an investigation for an event that happened December 12th.

My sense is that that's kind of par for the course.

So, for two reasons. One, that there isn't a lot of support for education at the institution. And education is vital for public safety in these prisons, for the safety of the institution, and for the hope that somebody will come out better when they leave.

And second, when you raise issues, there's a question of reprisal. And we have filed an unfair labor practice with PERB today.

Thank you for your time.

CHAIRMAN BURTON: When did the unfair labor practice occur, yesterday?

MR. HSIA-CORON: No, the unfair labor practice occurred May 4th, and our lawyers completed their -- their work on it today and filed it.

MS. POWERS: Barbara Powers. I'm a member of

the Correctional Institution Committee.

CHAIRMAN BURTON: At Soledad?

MS. POWERS: No, at CSEA. I personally work at Mill Creek State Prison.

However, I previously worked at Soledad. I noticed that we had some members here today that I hadn't seen for long time in support of Mr. Hamlet. I think that's very nice.

It's a pleasure to see the Mayor of Soledad here. I haven't see seen him for sometime, and his wife, of course, is Mr. Hamlet's secretary.

The CIC Committee has some -- some real concerns. On January 17th, the Correctional Institution Committee met with Warden Hamlet after a brief tour of his facility. One of the critical issues we addressed with him was the fact that the vocational instructors do not have access to outside telephone lines.

Part of their job is to encourage employment for their students. They absolutely need access to vendors. They need access to the trade advisory committees. They need access to potential employers, not to mention the fact that they still need access to the union and its members.

When we brought this issue up, Mr. Hamlet assured us that he would look into this issue to see what could be done. That was January 17th. And approximately four months later, no one on the committee, nor any steward that I'm aware of, has been apprised of any changes or any roadblocks to addressing this issue.

We have a list of members and stewards that has been faxed to us, requesting us to come forward and oppose Mr. Hamlet's confirmation. Out of fear of reprisal, they declined coming and appearing themselves.

The Department of Corrections has somewhat of a reputation in the area of reprisal.

CHAIRMAN BURTON: You're against the nomination?

MS. POWERS: Yes.

In reference to the investigation and the unfair that was just put on Mr. Hsia-Coron, there is a specific requirement in our Department manual that the institution or the warden get permission from the Director of Corrections before they -- they begin an investigation on a union elected officer.

We've requested a copy of that request and permission form, and as of this point, we have not received any copy of that.

We have some minor issues from our members that have not been dealt with that have impacted them negatively.

We really have some -- some serious concerns. We know that Mr. Hamlet's been with Soledad for a very long time. But our members and CSEA civil service are very concerned about the -- the relationship between the prison and the warden and the union representing the non-custody members.

CHAIRMAN BURTON: Thank you.

Sir.

MR. BATISTA: Good afternoon. My name is Marc Batista. I'm the officer assigned to the CIC, Correctional Institutions Committee.

This committee was actually put together by a 100 percent unanimous vote of the council, which is the highest governing body of the rank and file members who work for the State of California.

This committee was actually -- these two institutions, Soledad and Salinas Valley, were the first two prisons that we actually toured with this committee. We met with Warden Hamlet, and we addressed some of the issues that we had, you know, heard from our members.

As of today, like I say, many of those issues have not been, you know, addressed in any way.

One of the other concerns that we have, and I think really this has impacted, you know, the amount of people that have come in and spoke today, is that, you know, fear of reprisal. Reprisal in the Department of Corrections can be very subtle. It is -- you know, I've heard Senator Burton assure individuals that there would no reprisal for coming in and speaking against the confirmation of anyone.

But it's very difficult on a day-to-day basis to be there, you know, to ensure that. And I'm sure his word is good, but it's just the day-to-day business that, you know, our members face, you know, are very fearful of reprisals.

There is one individual who has had to contact the Inspector General asking for his assistance to address the issue of, you know, what he feels is reprisal.

Also too, I know that we've talked to many of our members, and one of the things that is very important, and it is granted in other facilities, is flex time. Flex time which

actually allows members to adjust their schedules a little bit to help with, you know, individual problems that they might be having dealing with child care.

We have been told that he has been, you know, nonsupportive in any way on this. This heavily impacts our members, especially our single parents who, you know, work at these facilities.

And for this reason, you know, today, as the officer assigned, one of the four civil service division officers and the officer assigned to the CIC Committee, we're asking that this confirmation not be confirmed.

Thank you.

CHAIRMAN BURTON: Would you like to comment on his statements?

MR. HAMLET: Yeah, I would.

We had a meeting with everybody present, and it was about three months ago.

After the meeting, I did check with the chief job steward on the issues that were brought up. And we never received anything back as a problem.

Now, as far as the flex time, we have flex time out there. That's news to me that we don't allow it. We have had it.

MR. BATISTA: Senator Burton, I'd like to clarify the difference between a chief job steward and actually the stewards. When you're dealing with an individual, and other ones are actually the stewards there at the work place.

There is an individual chief job steward who did

speak in support of it, but we have basically been contacting our stewards there in the area, and, you know, they also, too, feel that, you know -- and those are the ones who signed the petition. Many of them, we've polled them and 80 percent of those we polled were asking that the confirmation not go forward.

CHAIRMAN BURTON: I want to get back.

A group came in and said there is a problem. You talked to somebody, and they said there isn't a problem.

Is it that the problem went away? What happened? I'm talking to the Warden.

MR. HAMLET: After we had --

CHAIRMAN BURTON: You had a meeting.

MR. HAMLET: Yes, sir.

CHAIRMAN BURTON: -- with a group of people?

MR. HAMLET: Yes.

CHAIRMAN BURTON: And they were saying, we've got some concerns or problems.

MR. HAMLET: Yeah, they were talking about the telephones, yes, sir.

CHAIRMAN BURTON: Let me go into that telephone deal.

Why wouldn't these people be able to use the telephone?

MR. HAMLET: It wasn't they couldn't use the telephone.

CHAIRMAN BURTON: We don't want to get into the collect calls and the price of them.

[Laughter.]

CHAIRMAN BURTON: Why can't prison personnel, in the official performance of their duty, use a prison phone to call out to, hopefully, get some inmate a job when they get out so they don't rob a guy and come back in?

MR. HAMLET: What the policy had been at the Correctional Training Facility is, the phones down in the classrooms did not have outside capabilities because there's a lot of inmates in the area.

CHAIRMAN BURTON: I understand that, but I mean, how about, do teachers have an office? Do teachers have a teachers lounge? Teachers have a place where they can go to the Warden's office and make calls?

MR. HAMLET: There's phones available in the administrative offices down in the Education Department. That's what they had been doing for all these years, using those phones.

CHAIRMAN BURTON: So, the problem was, they wanted to be able to make outside phone calls from the classroom?

MR. HAMLET: Correct, yes.

CHAIRMAN BURTON: Who was the guy up here saying he couldn't make a phone call? Is that what you're talking about? You couldn't go and make them in the education administrative office?

MS. POWERS: Yes, it's entirely possible to go to the administrative office to make the phone calls. However, every other institution within the state has their vocational

instructors with the capability of making outside phone calls.

CHAIRMAN BURTON: As are the ones there, but they do it in an office.

Now, you're telling me every correctional institution in the state has a vocational -- like they can do it out of the classroom?

MS. POWERS: A large number of them. I won't verify that every --

CHAIRMAN BURTON: How about any?

My brother taught at San Quentin, and I know he couldn't make a phone call.

MS. POWERS: At Mill Creek, at Centinella, Women's Prison, just to name a few.

CHAIRMAN BURTON: They have phones in the classrooms?

MS. POWERS: Yes.

CHAIRMAN BURTON: With outside capability?

MS. POWERS: The inmate students are not in the classroom without having a staff member there with them. It becomes quite inconvenient --

CHAIRMAN BURTON: This thing's getting a little bit farther afield than I would have hoped.

But it doesn't seem to me to be a really egregious situation when, if you're the voc. ed. teacher, and I assume you've got more than one spur-of-the-moment phone call, but you might be calling several potential employers about several potential employees, it would seem that's what you would be doing out of the administrative offices.

MR. HSIA-CORON: Senator, can I answer that, because I represent the teachers.

CHAIRMAN BURTON: I wouldn't mind having the teachers themselves. That'd probably be the best testimony.

MR. HSIA-CORON: I am a teacher. I've taught at Soledad for 17 years.

CHAIRMAN BURTON: Okay.

MR. HSIA-CORON: I'm the Chair of the bargaining team.

CHAIRMAN BURTON: No, just your name.

MR. HSIA-CORON: My name is Andy Hsia-Coron, and I've taught at Soledad for 17 years. I'm an elected rank and file representative.

CHAIRMAN BURTON: You taught there. Do you still teach there?

MR. HSIA-CORON: I still teach there, though less often because of the amount of hearings.

CHAIRMAN BURTON: All right, I understand.

MR. HSIA-CORON: The vocational teachers help secure jobs for folks.

CHAIRMAN BURTON: We went all through that. I got that already.

MR. HSIA-CORON: Okay.

Basically, you've got a lot of shops, one office, one phone.

The folks at most institutions work in these phone calls all during the day to try to secure their people work, because if their folks can get work, they don't come back

to prison.

CHAIRMAN BURTON: How do you teach them in the class while you're making a phone call about work?

MR. HSIA-CORON: A lot of them in a vocational shop are working on vocational projects. So, you can sit there at various times while they're going, when you've got everybody set. Sit down in your office, usually at a glass window, and you can make a call while you watch --

CHAIRMAN BURTON: So, the phone is in an office behind a glass window.

MR. HSIA-CORON: Yeah, in most of the offices.

CHAIRMAN BURTON: How is some inmate going to get there if that's your concern?

MR. HAMLET: Because sometimes those doors are left open. Inmates have access to them.

CHAIRMAN BURTON: How about giving the teacher a dial-out code?

MR. HAMLET: That's something we can certainly consider.

CHAIRMAN BURTON: That's not brain surgery.

I mean, if the concern is that somehow an inmate is going to get to sneak into this thing, which probably if they do that, they'll get written up for some violation of something, I would assume, and lose a privilege of some sort, I would assume.

So, unless they were a little whacky, or it was some kind of a lark, they didn't think they'd get caught, but if you just give the teachers, which we have had sometimes in

places, I have, where you have a code to dial out to get in. So, instead of dialing 9, they dial it.

And also, they would dial, and each instructor would have a code so you know who's calling, so that some instructor's not calling their girlfriend up at Puget Sound.

But I would suggest, one, you just get on that immediately.

Two, as far as retaliation is concerned, the Inspector General is looking into that situation because that's something that we do not in the Legislature, in either party, like. Somebody comes forth, hot or cold, they should do so without fear of retaliation. And, you can't watch somebody 24 hours a day, 7 days a week to do something, but if it becomes egregious.

It would be my suggestion that the Committee move the confirmation to the Floor without recommendation pending a report back on how we're going to deal with the phones. And we're also going to check to see whether other institutions have the phones or not, but they should.

I was thinking it's on the wall. If it's in an office that's basically closed, and you give the teacher the code to dial out, that would take care of that problem.

MR. BATISTA: Senator Burton, it's much more easier for our teachers to make calls while they're in the classroom rather than --

CHAIRMAN BURTON: I got it. We already dealt with that. I got it.

MR. BATISTA: Okay.

CHAIRMAN BURTON: I can see that point.

I was viewing teachers being in the classroom teaching, not shop teachers being in the office, unless the guy says, how do you put this piston on the drive shaft, assuming they're doing auto shop.

Gerald Atchley, you're in support?

MR. ATCHLEY: Yes, sir.

CHAIRMAN BURTON: Where were you during the support calls?

MR. ATCHLEY: I wasn't aware --

CHAIRMAN BURTON: You're a rebuttal witness, are you?

MR. ATCHLEY: I wasn't aware of the conflict that was going to come forward, and I didn't anticipate the situation.

CHAIRMAN BURTON: Do you have anything to refute what they said?

MR. ATCHLEY: Yes.

As far as the retaliation --

CHAIRMAN BURTON: Does your daughter work in his office?

MR. ATCHLEY: Pardon me.

[Laughter.]

CHAIRMAN BURTON: Nothing, just trying to make the day go faster.

MR. ATCHLEY: Clarification. I have no contact with -- I have no relative.

CHAIRMAN BURTON: I got it.

MR. ATCHLEY: I'm a little bit nervous, but just for your information, the gentleman that was saying that we have had a --

CHAIRMAN BURTON: And you are?

MR. ATCHLEY: I am the Supervisor of Correctional Education Program. I'm over the Education Department at CTF.

The primary issue here is two-fold. One on the telephones, which we are currently looking into. We have made some progress. One of the issues --

CHAIRMAN BURTON: Just do it the way I said.

MR. ATCHLEY: One of the issues the codes. There seem to be some technical difficulties there. We are looking into that possibility.

CHAIRMAN BURTON: Trust me, it ain't that technical.

MR. ATCHLEY: Okay.

The other issue is retaliation. The gentleman that was saying that we had retaliated against him for him coming out against Mr. Hamlet, Andy Hsia-Coron. I wrote a memorandum to Mr. Hamlet back in January for an issue or an incident that took place in Mr. Hsia-Coron's classroom requesting this investigation. Mr. Hamlet signed off on that in December.

Up to that -- up to my knowledge, that simply has been going through the process, and it seems to have come to fruitation [sic] at this time.

It has nothing to do with Mr. Hsia-Coron's position for or against Mr. Hamlet.

Retaliation in my department, to my knowledge, does not exist.

CHAIRMAN BURTON: We're going to have an independent judge of that.

MR. ATCHLEY: That's fine.

CHAIRMAN BURTON: Yes, sir.

MR. BIGGS: Sir, I'm Mike Biggs. I'm a correctional sergeant at CTF.

And even in the housing units with -- where they have gun coverages in offices, we do not have outside phone lines just because you want to make it a security issue.

CHAIRMAN BURTON: No, we understand that.

There's a difference. You're not calling to get some guy a job. Your job is to keep somebody in.

Their job is, when they get out, to get them a job. So, there's two different responsibilities.

I understand that. No problem.

I don't need repetitive stuff, sir. We heard from you before.

Come on right up.

MR. HENARES: I'll make this very brief. I'm the chief --

CHAIRMAN BURTON: I just want Mr. Lawson to know, this is just a taste of what he's going to get on the CTC.

MR. HENARES: Again this is Gerald Henares, the chief steward. My name was mentioned here.

CHAIRMAN BURTON: Your name wasn't; your title was.

MR. HENARES: Gerald, and the last name's spelled H-e-n-a-r-e-s.

I challenge the stewards survey, because it's not conducive of the stewards survey that I did before, prior to coming before this Committee.

In fact, one steward that claims retaliation was not even certified until three weeks ago, since he alleged that for the last 18 years, his certification was lost.

Thank you.

CHAIRMAN BURTON: Thank you.

I'd like to move the measure to the Floor without recommendation.

Call the roll.

SECRETARY WEBB: Senator Karnette.

SENATOR KARNETTE: I'm voting on the recommendation? Is that right?

CHAIRMAN BURTON: You're voting to move it to the Floor without recommendation.

SENATOR KARNETTE: Aye.

SECRETARY WEBB: Senator Knight. Senator Romero.

SENATOR ROMERO: Aye.

SECRETARY WEBB: Senator Burton.

CHAIRMAN BURTON: Aye.

SECRETARY WEBB: Burton Aye. Three to zero.

CHAIRMAN BURTON: Thank you, sir.

Warden, I think it would be very helpful if your people -- and if you need a copy of the transcript of the

complaints or whatever, that we will get that to you. Then have a report back as soon as possible, both on how you're dealing with the phones and other stuff. We'll make that available to you, Mike.

John Lawson, Member, California Transportation Commission.

MR. LAWSON: My name is John Robert Lawson.

CHAIRMAN BURTON: Senator Costa is going to give you a little knock-down.

MR. LAWSON: Well, when you mentioned my name, you cleared the whole place out --

CHAIRMAN BURTON: I know that.

[Laughter.]

SENATOR COSTA: Thank you very much, Mr. Chairman and Members of the Rules Committee.

I'm here to formally endorse my support for Mr. John Lawson, who's been a native of the Valley for most of his life. He has an extensive transportation background, was nominated late last year, or last year, I should say, by Governor Davis to be appointed to the California Transportation Commission.

All of you are very familiar with the important role that the California Transportation Commission plays in the State of California in establishing transportation priorities and initiatives.

I believe that Mr. Lawson's background in the transportation field through many, many years gives him the experience necessary to do a very good job on the Commission.

He has a host of interests on transportation, not withstanding his own background and experience with regards to transportation systems, but also is interested in creating the sort of intermodal transportation opportunities between our freeways and roads, together with our rail systems that provide both freight and inner city rail transportation, along with our air transportation systems.

I think he has vision and boldness and willingness, the kind of on-the-hands experience, to figure out how to make things happen, and how to eliminate some of the inefficiencies and wastes that we have with regards to Commission's efforts.

I would highly recommend your support for his appointment to the Commission.

CHAIRMAN BURTON: John.

MR. LAWSON: My name is John Robert Lawson. I've been on the Commission for about five months.

There's a lot to it. I've learned quite a bit on how the agencies function, and what goes on.

And kind of all of us on the Commission right now, we're trying to streamline the different agencies that we have to work with. Because in Arizona, it takes approximately three years to build a project from start to stop, and in California it runs seven or eight years.

We're learning how to speed up the projects, and go forward, and do a better job for the State of California.

CHAIRMAN BURTON: Thank you.

I know it's not your neighborhood, so you might

not have focused on it. Have you focused, or has the Commission, any attention on the rebuilding of the Bay Bridge? Does that come within your sights?

MR. LAWSON: Well, the earthquake part of it is, yes. It's coming in different segments right now.

CHAIRMAN BURTON: What do you think? Has the Commission given any discussion as to what financing plans some? Supposedly, there's a shortfall due to the mayors on either side of the Bay wanting to change the design, delaying it.

MR. LAWSON: Being from not in the Bay Area, the two dollars they're charging now, that's going to go away and go back to a dollar, the way I understand it. They're going to try to keep the two dollars going.

You know, it's not a self-paying project, so the State of California and the Highway Department's going to have to pay the extra half.

CHAIRMAN BURTON: Have to jump in.

With or without two dollar extension?

MR. LAWSON: With or without the two dollar extension.

CHAIRMAN BURTON: Senator Knight.

Have you given any thought, there's a highway up in the high desert there.

[Laughter.]

SENATOR KNIGHT: I was going to say that there are a number of two-lane highways in the State of California.

CHAIRMAN BURTON: Some of whom are in his

district.

SENATOR KNIGHT: Some of whom are in my district, that have not been widened as a result of funding decreases or whatever, or the STIP. And the projects being pushed out year after year.

But these highways have become death traps primarily as a result of increased traffic due to increased growth in the areas. And California has not kept up with them.

Highway 138, Highway 58, and 395, they're all highways that need to be worked on in order to save lives and in order to facilitate transportation between the two populated areas.

What are we doing?

MR. LAWSON: Senator Knight, I made a very bad mistake, because the first CTC meeting I went to was in San Bernardino. And being from Fresno, I went up 58, and cut across, and got on 138, and I was four hours ahead of schedule, and I almost got late to the meeting. So, I understand one hundred percent what you're saying about 138.

SENATOR KNIGHT: You're lucky you got there.

MR. LAWSON: Well, it wasn't by the signs, I'll tell you, because there's no signs either.

CHAIRMAN BURTON: Try the Richmond Expressway for that.

SENATOR KNIGHT: Well, is there anything that's going to be done? Are you going to work on it, or are we going to move forward in that direction or what? Or is there anything you're going to do?

MR. LAWSON: Well, I think that you've been trying to do quite a bit on it. You introduced a bill to take it out of the General Fund.

SENATOR KNIGHT: That was primarily because the Governor decided to jump into the transportation funding business, projecting.

MR. LAWSON: I think, truthfully, the Governor has a Governor's Relief Program. And if you would probably go and talk to him, it sure would be a good project to put on his Governor's Relief Project.

SENATOR KNIGHT: For congestion relief?

MR. LAWSON: Yeah.

SENATOR KNIGHT: Is that true?

MR. LAWSON: There's true congestion there.

SENATOR KNIGHT: You're suggesting I go talk to the Governor?

MR. LAWSON: Well, it's his Congestion Relief Program.

CHAIRMAN BURTON: That's right after you vote for the budget.

[Laughter.]

CHAIRMAN BURTON: Or maybe before.

SENATOR KNIGHT: How about airports? Do you have anything to do with airports to support transportation?

MR. LAWSON: Do I have anything to do with airports? Yeah, they bring things in front of us on the airports, you know.

In fact, the LAX airport people came to us here

awhile back and talked about a $10 billion expansion. Even in my realm of things, $10 billion is a lot of money, especially for one airport.

SENATOR KNIGHT: Did they talk about moving anything to Palmdale International Airport?

MR. LAWSON: No, they didn't. I did. I brought that up. I said, you know --

SENATOR KNIGHT: Ten billion out there would do a whole lot.

MR. LAWSON: I said that we would probably be better off to build a monorail to go from the LAX Airport to the Palmdale Airport and make it an international airport, and go forward that way.

SENATOR KNIGHT: I don't mind a monorail, but certainly you can't do that before we get an airport going.

And I would suggest that we need to move some of the carriers and some of the freight in that direction. And L.A. City Airport Department has that ability.

MR. LAWSON: Well, this morning, while you're talking about it, it did come up. And it seems like Palmdale's run off all the airlines they've moved out there.

SENATOR KNIGHT: What do you mean?

MR. LAWSON: They said that air people -- airlines that went out there, for some reason they couldn't get enough revenue, or something didn't happen.

But I am for Palmdale being a major hub of the airlines.

SENATOR KNIGHT: The last one we had out there

that was at least partially successful went bankrupt, and not because they were at Palmdale. It was because of their activities elsewhere.

They didn't stay long enough to develop a market. Nobody has stayed long enough to develop any kind of a market, and that's what you're going to do.

You're not going to get a market overnight. So, you're going to have to accept the fact that you may lose a few dollars in the beginning until you can generate that market and convince people that there's free parking out there, and they can go places from there.

CHAIRMAN BURTON: I think they need a new general manager at that airport.

SENATOR KNIGHT: They don't have a general manager.

[Laughter.]

CHAIRMAN BURTON: That's one of the problems. The general managers make almost one-six bits a year.

SENATOR KNIGHT: Is that right?

CHAIRMAN BURTON: Senator Romero.

SENATOR ROMERO: Thank you.

Let me ask you about a billion dollar project, the 710 completion activity there. Of course, it's been in the courts for some three decades.

What is your view on whether or not that 710 should be completed? Is it a feasible project? And have you looked at alternatives such as the low-build alternative as a possibility in the interim, until this legal decision is

rendered?

MR. LAWSON: Senator Romero, I could do at lot better on Wednesday, because tomorrow I have scheduled all day to be down there. And they were going to drive us through the project. They're going to bring us up to speed on that project. And I have taken the day off tomorrow to be down there all day.

The part that I do know about it, I think that, and just my opinion only, I think they need to go forward because they're impacting Pasadena and Alhambra on each end of the town -- I mean each end of this freeway that's never been built.

SENATOR ROMERO: If I can just add as well, too, in subsequent discussions with the Alhambra City Council, they are looking at perhaps expansion only to Huntington Drive, as opposed to the completion.

But I'd be interested, when you take that tour tomorrow, to take a look at the cost for that completion, but as well, taking a look at the alternatives.

The low-build, this one that's been put forward, I'm not sure that I'm in agreement with it, but I think it's an alternative that can at least address some transportation congestion relief right now until the court renders its decision.

MR. LAWSON: Thank you, but like I say, tomorrow I'll know a lot more than I do right now.

CHAIRMAN BURTON: Senator Karnette.

SENATOR KARNETTE: There's a question that I have

about what role the state should play in helping cities and counties monitor and assess conditions and needs of networks of local streets and roads, because that's what we're asking you.

What role should the state actually play in monitoring the 710, and Palmdale, and the 710 down my way? How do you see the state's role in this?

MR. LAWSON: Well, some of the small problems that could end up being large problems is with, I guess, SB 45, where the county and city spends its money to do what they want to do, and then the county next to it doesn't spend its money to join with the other counties.

I went to a couple of meetings where the Nine Counties Task Force for the San Joaquin Valley, and you've got Kings County that doesn't agree with Fresno County, and Fresno County that doesn't agree with Madera County.

And all these counties with this different money in STIP, and all your different monies, if they don't work together, you build a freeway in one county that turns to a goat road in the next county, and we're not winning the war by doing this.

We need to have unity in all these counties to work together.

And I think that the state at the state level has the best ability to maintain and say where the state roads are built.

SENATOR KARNETTE: Thank you.

CHAIRMAN BURTON: Any witnesses in support? Any opposition?

Are you in support or opposition, Mr. Breed?

MR. BREED: Support.

Kirk Breed for Beneto Tankline in support of the confirmation.

SENATOR KARNETTE: Move the confirmation.

CHAIRMAN BURTON: Have you got anybody to introduce? Nobody here.

Call the roll.

SECRETARY WEBB: Senator Karnette.

SENATOR KARNETTE: Aye.

SECRETARY WEBB: Karnette Aye. Senator Knight.

SENATOR KNIGHT: Aye.

SECRETARY WEBB: Knight Aye. Senator Romero.

SENATOR ROMERO: Aye.

SECRETARY WEBB: Romero Aye. Senator Burton.

CHAIRMAN BURTON: Aye.

SECRETARY WEBB: Burton Aye. Four to zero.

CHAIRMAN BURTON: Congratulations.

MR. LAWSON: Thank you, Senators. Thank you, Chairman.

If any more people walk out, this is over.

[Laughter.]

CHAIRMAN BURTON: Kirk Lindsey.

SENATOR COSTA: Thank you very much, Mr. Chairman, Members of the Committee.

On behalf of Congressman Condit and myself, we'd like to also wholeheartedly support Mr. Kirk Lindsey, who is another product of the Valley, for the appointment on the

California Transportation Commission.

He, like the previous appointment, has an extensive background in the history of California's transportation efforts from a perspective of his own involvement over the years. I think brings a great deal to the table.

And we would very much like to see his appointment confirmed by the Rules Committee as well as by the Senate.

Congressman Condit wanted me to offer his wholehearted recommendation, and I mine, and we hope to be available for any comments or questions you might have later on. I have another appointment, though.

MR. LINDSEY: I'd just like to say thank you very much for considering my confirmation to the CTC. Certainly we'll represent the people of California as best as I can.

I'm from Modesto, the Central Valley, and live and die actually in the agricultural trucking business. Many of the issues that we've heard today are things we deal with every day.

I make myself available for whatever questions you might have.

SENATOR KNIGHT: Questions, Senator Romero?

SENATOR ROMERO: Thank you.

I'm interested in the Metropolitan Transportation Authority, the MTA in Los Angeles County. What relationship do you have with MTA?

And in the recent past, MTA has come under a great deal of criticism regarding its anti-union tactics in

collective bargaining.

If you're confirmed for the California Transportation Commission, how would you work with the MTA in making sure that these types of tactics are not put forward?

MR. LINDSEY: I don't have an answer. I'm not real sure that -- MTA is a local COG agency that creates and delivers projects to us for our confirmation, and our approval or disapproval. They're the creator, if you will, of what needs to be done in that localized area.

I'm not so sure we would have any dealings outside of what those projects might be, of how they interact with their own individual community. I think there's a more localized community issue than a CTC issue.

SENATOR KNIGHT: Senator Monteith, did you want to say something?

SENATOR MONTEITH: Yes, if I may, please.

I wanted to make my statement in support of Kirk Lindsey and the Transportation Commission.

SENATOR KNIGHT: In case you hadn't noticed, I'm the Chairman now.

SENATOR MONTEITH: Fine, thank you. I'll look at you, Pete. You're the man.

We have worked together in numerous situations in transportation, and I've found that Mr. Lindsey is able to work with people and get things done. And he is always listening.

He has the experience on a professional basis, and I have the utmost confidence that he'll continue and help us in our transportation in California.

So, I would like to state at this time that I'm in full support of his confirmation.

SENATOR KNIGHT: Thank you, Senator.

Senator Karnette.

SENATOR KARNETTE: I have had SCR 96 last year that got out of the Legislature. And it's really a report to be used as a goods movement blueprint for action, and Caltrans is supposed to be making that report.

I was wondering, what do you think the trucking industry could do to kind of relieve California's congestion problem as it relates to the trucks that come from out of state and out of country? What do you think the trucking industry might do to help us out?

MR. LINDSEY: I think there's a lot of opportunities, but every time we want to go there, we always run into certainly problems to do that.

I think leveling the playing field between visitors in California and those that live in California, the domiciled carriers within the state, would be a huge benefit to do that from, you know, an equality in the environmental issues, to who's paying for the roads that they're driving on.

Visitors don't pay. Visitors aren't under the same rules of the air quality standards that localized companies are. There's workers' comp. issues. There's liabilities issues. There's a whole passle of issues to level that playing field.

The trucking industry responds to its customer nc different, I guess, than any other industry. So, when the

customer says, you have to be here at 6:00 o'clock in the morning, we don't have a choice. We have to be there at 6:00 o'clock in the morning.

My suggestion would be that there would be an effort between the industry, the trucking industry itself, and its customer base to spread out those delivery times.

I find it amazing that all of my trucks need to be on the highway during peak travel hours. We have to be there because the customer says, we want you there at 9:00 o'clock. You know, we're right in the middle of 8:00 o'clock traffic. We don't care. I mean, I'd much rather be there at 10:00 o'clock at night. The last thing on earth that I want my truck is in the middle of rush hour traffic. What a huge loss of productivity, the risk, the delay, the traffic, all the other things that go with it.

But that's going to take the customer to change how they dictate to us on what they want from us. So, I think a coordinated effort would be -- probably be the biggest issue.

And if we look at, you know, and that may be a pipe dream, but if you go back, I think it was the '84 Olympics, when all of a sudden, they started to coordinate when things came and went, from government workers, to trucks, to the whole thing. All of a sudden, we took a huge monster mess of traffic, and we somewhat mitigated it. I don't know if we eliminated it, but we may have helped it.

But again, that takes that coordination, everybody sitting down at the table together trying to come up with a solution.

SENATOR KARNETTE: I hope we can do it, because I think we're going to have to or we're going to freeze. The freeways are just going to freeze.

MR. LINDSEY: We've got big parking lots.

SENATOR KARNETTE: Thank you.

SENATOR KNIGHT: Why is it that we can't get together and do that again as we did in the '84 Olympics? I'm well aware of what they did, and the cooperation that everybody put forth in order to make that event successful.

MR. LINDSEY: You know, I don't know. I don't know if it's a leadership issue, and just nobody really has stepped up to take the lead role in bringing all of the players together.

SENATOR KNIGHT: Do we have to bring Ueberroth back?

MR. LINDSEY: Might work. He was successful.

But I would just guess it's more of a leadership issue.

We also run into the realm, as we move from that time, day and time, to this just-in-time delivery process, I've got to have it at 9:00 o'clock in the morning so I can sell it at 10:00 o'clock in the morning.

Maybe we're too efficient. We've created that -- we've narrowed those windows so tight that we're putting -- you know, we're breaking the back of the system. Instead of 8:00, let's get there at 4:00 clock in the morning and sell it at 10:00 o'clock in the morning, and we're not competing for road space.

SENATOR KNIGHT: You heard the discussion about 138, 58, and 395?

MR. LINDSEY: Could I add a list of maybe 35 or 40 other roads that are in the same boat, sir?

SENATOR KNIGHT: I think that's something that California has missed over the years, and it's fallen behind in, through the crack, for a number of years, and caused undue hardships on people and industries.

MR. LINDSEY: I would hope that the pendulum is swinging back the other direction. Instead of being on one far side that says, we're going to build roads for the sake of building roads, kind of like moving ants with no thought process whatsoever, that the pendulum would sort of swing to the other side, that we look at growth patterns and future growth, and we deal with land use issues. You know, we deal with actually moving goods and services and people to and from economic centers, not just from here to nowhere.

And if we do that, I think your issues in your local community get addressed way up the list, because certainly those are economic centers, and we are moving goods and services and people to jobs, and home from jobs, and to retail outlets and such, and we're not just building a road that's going to go from nowhere to nowhere. We've got an awful lot of those floating around also.

SENATOR KNIGHT: There was a question I wanted to ask Mr. Lawson, but he indicated that Arizona can move their STIP project within three years. It takes us seven and eight?

MR. LINDSEY: We've certainly heard that, yes.

SENATOR KNIGHT: Is there any way that we could look into that and move our STIP projects forward?

MR. LINDSEY: Again, I think it's a coordination issue.

Arizona does not have, from what we've been told, quite the same number of environmental mitigating issues before them. But I also --

SENATOR KARNETTE: Who wants to live in Arizona? Not me.

MR. LINDSEY: In the same token, sir, I think that what they've done is, they've got a method where they bring all of the players to the table early. If you look at -- and I'll talk about my local community from a developer viewpoint.

It used to be you went down to City Hall, and you had to go to the Public Works Department, and the Traffic Department, and this department, that department. And you spent three weeks running around your local City Hall, trying to get the forms to build a project.

That has changed now, where you go in and it's a one-stop shop. You walk in. Everybody's at the table. Everybody's dialed in. If it's a game breaker, it's a game breaker; we don't have a project. If not, everybody's working from Day One, and we're not taking that two, three, four week delay.

I think we have to do the same thing as we deal with building of our infrastructure, bringing all of the people to the table, getting them on board immediately. If it's a game breaker, somebody needs to say, you know what? This thing is 3(

years out because it's got so many problems, we're never going to go there, and we can't afford to tie money up on a project 30 years from now when there's 10 other projects that need to be built today.

So, somebody's got to be able to say no somewhere quickly in the process. But we've got to start early, and we've got to build a united front. And there's a big effort to do that.

SENATOR KNIGHT: You know, it's amazing how long our government's been going on, and we keep coming up with these new ideas that have been around for hundreds of years. I don't know why it takes us so long to get with it, but it does. Okay.

Thank you.

Did you move the confirmation?

SENATOR KARNETTE: I'll move it, since he supported women's polo.

MR. LINDSEY: I actually coach it.

SENATOR KARNETTE: You're a coach for women's water polo.

MR. LINDSEY: And swimming.

SENATOR KNIGHT: Any support for the nomination?

MR. ASSAGAI: Yes, Mr. Chairman and Members, I'm Mel Assagai, of the Advocacy Group and California Trucking Association.

We are very, very proud to support this nomination. We think that Mr. Lindsey will be one of the finest members we've had on the Commission. He is a former President and Chairman of the Board of the California Trucking

Association, has been a member for 30 years, and has held practically every post in the Association.

We think that he's got the kind of judgment and breadth of understanding to make a very solid contribution to the state, and would urge your aye vote.

SENATOR KNIGHT: Thank you.

Any other? Any opposition to the nomination?

Okay, Secretary, call the roll.

SECRETARY WEBB: Senator Karnette.

SENATOR KARNETTE: Aye, for the coach for water polo.

SECRETARY WEBB: Karnette Aye. Senator Knight.

SENATOR KNIGHT: Aye.

SECRETARY WEBB: Knight Aye. Senator Romero.

SENATOR ROMERO: Aye.

SECRETARY WEBB: Romero Aye.

SENATOR KNIGHT: Congratulations.

MR. LINDSEY: Thank you much.

[Thereafter, CHAIRMAN BURTON added his Aye vote, making the final vote 4-0 for confirmation.]

SENATOR KNIGHT: Next is Diane McKenna, Member of the California Transportation Commission.

Come in and take the hot seat.

SENATOR SHER: Mr. Chairman, may I make a brief introductory statement for my good friend, Diane McKenna?

SENATOR KNIGHT: Certainly, Senator Sher. You're

on.

SENATOR SHER: Thank you very much, Members of the Rules Committee.

It's my great pleasure to introduce to you my good friend of many years standing, Diane McKenna. I've known Diane since her first foray into political office in the City of Sunnyvale, where she was an outstanding citizen of the community, member of the City Council, and Mayor of Sunnyvale.

Following that, she ran and was elected to the Santa Clara County Board of Supervisors, where she enjoined the reputation of being a friend to everyone and an enemy of none.

She's very balanced in her approach to problems, very effective. In all those years in public service, and even more importantly, central to the planning for transportation in the whole Bay Area. She was central to the formation of our transit authority, the Valley Transit Authority. She worked on what was then very innovative local government taxing, and local citizens taxing themselves, to provide for transportation projects that otherwise would have been the responsibility of the state.

She's very familiar not only with the transportation problems in our immediate area, but the whole Bay Area, and she'd made an outstanding addition to the California Transportation Commission. I recommend her to you with my highest recommendation.

CHAIRMAN BURTON: Go ahead.

MS. McKENNA: Thank you, Members of the Committee.

I just wanted to say that I had the pleasure, and I appreciate the time that you or your staff gave me to meet with me.

I am from the South Bay, Silicon Valley, better known to some of you. I have worked on transportation for a number of years, and I would just like the opportunity to take some of that experience to the state level and work on behalf of the citizens of California.

I think I'll let my brief goals stand for themselves and be glad to answer any questions that you might have.

CHAIRMAN BURTON: Senator Knight.

SENATOR KNIGHT: Same old questions, you know, come down and look at 138, 395, and 58. See what you think.

MS. McKENNA: I will, Senator.

SENATOR KNIGHT: We talked about that before.

CHAIRMAN BURTON: What's your thought on the Bay Bridge?

MS. McKENNA: You know, I haven't gotten -- every one of us is telling you it's tomorrow, but actually I'm getting a briefing on Wednesday on the Bay Bridge.

CHAIRMAN BURTON: What are your thoughts? I mean, it's something those of us in the Bay Area pay more attention to than others.

MS. McKENNA: Yes. It's something that looks as though we're going to have use -- not get rid of the tolls to help pay for it. I don't know what other options, really.

CHAIRMAN BURTON: Lay some of the responsibility

or most of it on MTC?

MS. McKENNA: Well --

CHAIRMAN BURTON: It's within their jurisdiction.

MS. McKENNA: Right, right.

I think I would like to take a look. I mean, I have some understanding of what the delays were, but I think we should also look at what the causes of the delay were and see if there's some way we could --

CHAIRMAN BURTON: Have both Mayor Brown and Mayor Brown come up with something?

I would guess that Caltrans itself ought to be looking at ways, if there are any frills on it, on the retrofitting or whatever, to kind of --

MS. McKENNA: -- to reduce the cost.

CHAIRMAN BURTON: Yes, I would think, because it's going to be tough. I think even getting the toll authorization extended may or may not be tough. You have people, and some would say it's your district, let the people vote for it. Others would say, I've got a constituent that crosses it every three years, and he shouldn't have to pay the extra buck.

If we don't do something about it, I don't know what's going to happen.

MS. McKENNA: Well, you know, I consider it a major -- like any other major highway, it doesn't matter whether you're in Southern California or Northern California, it's part of the overall system.

CHAIRMAN BURTON: It's a link.

MS. McKENNA: Yeah, it's the overall system.

But I think it points to the questions that others have been asking, as well as yourself, and that is, every time you delay a project, the price goes up.

I was thinking as you asked the question before, the earthquake was October 17th, 1989. That's more than a decade.

CHAIRMAN BURTON: I think it was delayed at least a couple of years. It wasn't pretty enough for Jerry, and then Willie wanted an off ramp for it on the TI, yeah, Treasure Island.

Hopefully, I'll be out of here before it falls down. I was here during the last rebuilding in '66 or something. They had a hump there that they had to fix.

MS. McKENNA: I just came across the Bay Bridge. I have my faith that we're going to get it rebuilt.

CHAIRMAN BURTON: Senator Romero, the 710 Freeway.

SENATOR ROMERO: Thank you.

No, actually, I'm going to bypass on that one.

You talked about your short-term goals and long-term goals. Under both of these, you talked about expediting the projects.

You indicate in your short-term goals that you're interested in some subtle charges. Can you describe those, some of the short-term and long-term goals to expedite the projects?

MS. McKENNA: Well, I think the thing that came into mind most recently is the fact that the Sunol Grade, which

is in both Alameda and comes into Santa Clara County, was not a project that anybody was looking to as high priority. And yet, it became bumper-to-bumper types of traffic with no movement.

And it took the three counties getting together to fund that project that otherwise wouldn't have gotten together on projects before. And that project moved forward.

So, I think there's a lot of things that we haven't been looking at, maybe across the state, where we can get people sharing in the cost, and moving at least the bottlenecks or the congestions, ahead of what they originally planned for. So, I think those are kind of small-term projects.

I think long-term projects are -- it's going to be a little more difficult, because my goal would be to see the State of California be able to move goods or people, either roads or transit, throughout. And that's going to take much longer and greater cooperation.

But I think that there isn't -- the one thing you learn about transportation is that there isn't a magic bullet. It takes a lot of work, and it takes a lot of different avenues to get people and goods moved. So, you have to build roads, you have to build transit, you have to do all the kinds of things that help you move a little built closer.

So, that's what I meant by both long-term and short-term goals.

SENATOR ROMERO: Thank you.

CHAIRMAN BURTON: Senator Karnette.

SENATOR KARNETTE: I have two concerns. Actually, both of them relate to money.

The state, how do you see us addressing the problem of the sales tax that's going to expire in certain counties, and the fact that some groups, some counties, do pass taxes, and they're paying and other counties may not be.

What do you see as some way to approach that? Then I have a second question after that.

MS. McKENNA: Well, I come from a county where we've passed it four times now.

SENATOR KARNETTE: And I admire you for that.

MS. McKENNA: In Alameda County, I don't know if it's twice or three times. Twice in Alameda County.

I think that what made it work, at least in those respective counties, and if it's coming up in other counties, I would support it, what made it work was that it was an effort of business, the citizenry, the environmental groups, every group you could possibly think of supported it because the problem was so severe.

And it tends to happen when there's a crisis; people tend to rally around it. That's basically what happened in Santa Clara County. And to my knowledge of Alameda County, that's true.

So, it seems to me if there's any other county that wants to pass it, the only way it's going to happen is if you're able to get all of the groups behind it, because it currently still needs a two-thirds vote. And that's the dilemma that you face.

SENATOR KARNETTE: I wish it didn't need a two-thirds. I wish a majority would do it.

MS. McKENNA: I agree with you.

SENATOR KARNETTE: The other question I have is, it seems to me, and I don't know if you agree, but do you really feel like California receives its fair share of federal transportation funding? We just got cut some more.

How can we be more effective in competing with these other states? It didn't work too well under Clinton, either. We've got to get somebody who understand our needs and the fact that California's supporting the rest of the nation, and they don't get the message.

MS. McKENNA: Well, there's no question that California's a donor state, and we don't get our fair share.

I mean, I think the thing that we need to do, obviously, the one thing that we have now that we hadn't had before is a Secretary of Transportation who understands the issue. So, I think that maybe we should be lobbying not only our Congressional delegation, but the Secretary as well, to bring to the forefront those states that tend to be donor states, as opposed to those states who are receivers.

SENATOR KARNETTE: Maybe Senator Knight could help us; right?

SENATOR KNIGHT: Yes, ma'am.

CHAIRMAN BURTON: Do you have any family to introduce?

MS. McKENNA: No, I don't.

CHAIRMAN BURTON: Any witnesses in support?

MR. KEMPTON: Mr. Chairman and Members, Will Kempton, representing the Santa Clara Valley Transportation

Authority.

We're in strong support of the nomination.

CHAIRMAN BURTON: Witnesses in opposition? Hearing none, move the nomination.

Call the roll.

CHAIRMAN BURTON: How long did you live in Sunnyvale?

MS. McKENNA: I have lived there since 1968.

CHAIRMAN BURTON: Any cherry orchards there when you first moved in?

MS. McKENNA: All over the place.

CHAIRMAN BURTON: We used to go down and pick them.

Pete, you'd be happy to know this. It was three cents a pound, pick them yourself off the tree.

SENATOR KNIGHT: Yeah, I used to fly into Moffit in the '50s and '60s, and I remember what it looked like around there.

CHAIRMAN BURTON: We could have bought property and been somebody.

SENATOR KNIGHT: Could have bought the whole place.

MS. McKENNA: Olsen's cherry orchard was just -- is just being developed.

CHAIRMAN BURTON: Oh, no.

MS. McKENNA: Yes.

CHAIRMAN BURTON: I talked to her on the phone. She swore she'd never --

MS. McKENNA: It's just being developed now as we speak. It's a shame.

CHAIRMAN BURTON: Yeah.

MS. McKENNA: It's a shame that in a community -- that we have next to our community center what we're calling a heritage orchard, so we have about --

CHAIRMAN BURTON: A few trees.

MS. McKENNA: -- three acres of trees.

CHAIRMAN BURTON: They used to ship stuff. You could buy the Bings from her.

And I talked to her last year and told her how we used to go down there during "the war", Pete. And she said -- oh, God.

MS. McKENNA: Yes, it's depressing.

CHAIRMAN BURTON: Very depressing.

MS. McKENNA: My kids played in the orchard, so I know what it's like.

CHAIRMAN BURTON: This is worse than the energy crisis.

SENATOR KNIGHT: We used to have almonds in Palmdale.

CHAIRMAN BURTON: Call the roll.

SECRETARY WEBB: Senator Karnette.

SENATOR KARNETTE: Aye.

SECRETARY WEBB: Karnette Aye. Senator Knight.

SENATOR KNIGHT: Aye.

SECRETARY WEBB: Knight Aye. Senator Romero.

SENATOR ROMERO: Aye.

SECRETARY WEBB: Romero Aye. Senator Burton.

CHAIRMAN BURTON: Aye.

SECRETARY WEBB: Burton Aye. Four to zero.

CHAIRMAN BURTON: Congratulations.

MS. McKENNA: Thank you so much.

[Thereupon this portion of the Senate Rules Committee hearing was terminated at approximately. 3:02 P.M.]

--ooOoo--

CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of May, 2001.

EVELYN J. MIZAK
Shorthand Reporter

427-R
Additional copies of this publication may be purchased for $3.25 per copy
(includes shipping and handling) plus current California sales tax.

Senate Publications
1020 N Street, Room B-53
Sacramento, CA 95814
(916) 327-2155

Make checks payable to SENATE RULES COMMITTEE.
Please include Stock Number 427-R when ordering.

L500
R9
2001
no. 19

- CA
= Legislature

HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

DOCUMENTS DEPT.

JUL 18 2001

SAN FRANCISCO
PUBLIC LIBRARY

STATE CAPITOL
ROOM 3191
SACRAMENTO, CALIFORNIA

MONDAY, MAY 21, 2001
1:45 P.M.

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 3191

SACRAMENTO, CALIFORNIA

MONDAY, MAY 21, 2001

1:45 P.M.

REPORTED BY:

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

APPEARANCES

MEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to Senator Johnson

TIM SHELLEY, Consultant to Senator Karnette

CHRIS BURNS, Consultant to Senator Knight

RYAN SHERMAN, Consultant to Senator Romero

ALSO PRESENT

BETH CAPELL
SEIU

SENATOR JIM COSTA

JOHN HARRIS, MEMBER
California Horse Racing Board

SENATOR SHEILA KUEHL

ALAN W. LANDSBURG, MEMBER
California Horse Racing Board

APPEARANCES CONTINUED

ALSO PRESENT CONTINUED

MARJORIE SWARTZ
Western Center on Law and Poverty

DANIEL ZINGALE, DIRECTOR
Department of Managed Health Care

INDEX

	PAGE
Proceedings	1
Governor's Appointees:	
JOHN C. HARRIS, MEMBER California Horse Racing Board	1
Statement of Support by Senator Costa	1
Statement by Mr. Harris	1
Questions by CHAIRPERSON BURTON re:	
Position on Account Wagering	2
If the Industry has any Programs to Deal with Gambling Problems	3
What is the Status of the Back-Stretch Employees	4
Question by SENATOR KNIGHT re:	
Are There Impediments to Horse Breeding in California	5
Motion to Confirm	7
Committee Action	8
ALAN W. LANDSBURG, MEMBERS California Horse Racing Board	8
Opening Statement	8
Questions by CHAIRPERSON BURTON re:	
Position on Account Wagering	9
Do You Have Approval of Track Closures	9
What's the Status of Tracks Closing	10
The Future of Horse Racing	13

Questions by SENATOR KNIGHT re:

When Will the Medical Problems Associated with Horse Racing Will be Solved 15

Questions by SENATOR ROMERO re:

What Are Your Views in Terms of How the Media Depicts Horse Racing 17

Are There Any Charitable Foundations or Educational Foundations 17

Questions by SENATOR KARNETTE re:

Do You See a Future in Getting the Horses Closer to the People 19

Questions by CHAIRPERSON BURTON re:

Is the Movie About Sea Biscuit Better than the Old One 20

Motion to Confirm 22

Committee Action 22

DANIEL ZINGALE, DIRECTOR
Department of Managed Health Care

Statement of Support by Senator Kuehl 23

Opening Statement 23

Questions by CHAIRPERSON BURTON re:

Does it Make Sense to Have HMOs and Some PPOs Regulated by the Department of Managed Care While Having the Department of Insurance Regulate Some PPOs 25

When they Call in to the Hotline is it Computer of Person 28

When There was a Breakdown Between Sutter and Blue Cross, Did You Learn Anything 29

Questions by SENATOR JOHNSON re:

What Do You Think is the Role in Making this Whole Process More User Friendly for Regulated Entities 30

Questions by SENATOR ROMERO re:

What Are Your Thoughts on Sexually Transmitted Diseases and How to Get Out Information 32

Questions by SENATOR KNIGHT re:

Anything in Mind to Help People Where HMOs Left the County 36

Are HMOs obligated to Provide the Best Possible Health Care in Terms of Technology 37

Questions by SENATOR ROMERO re:

Is Prevention Medically Necessary 39

Questions by CHAIRPERSON BURTON re:

Is There a Distinction Between Necessary and Desirable 39

Is There Something That Can be Done to Help Places With no HMOs 40

Witnesses in Support:

BETH CAPELL
SEIU, Health Access California 42

MARJORIE SWARTZ,
Center on Law and Poverty 43

Motion to Confirm 44

Committee Action 44

Adjournment 45

Reporter's Certificate 46

PROCEEDINGS

CHAIRPERSON BURTON: Governor's appointees. First, John Harris, Member, California Horse Racing Board.

SENATOR COSTA: Thank you very much, Mr. Chairman and Members of the committee. I'm here to voice my support for actually both nominees to the California Horse Racing Board.

The first gentlemen, Mr. John Harris and I have known each other professionally and personally for over 22 years and I highly recommend him for this position. He comes with an array of outstanding qualifications in terms of his experience and background. He and his family have been involved in California horse racing for decades.

It's an issue of pride and as well as passion with John. He, besides his obvious experience and talent for this appointment, also has been a very important member of our community from a whole host of contributions to assisting on the hospital board and a host of other philanthropic efforts that he has been a part of, as well as to the State of California and I highly recommend him for this position.

CHAIRPERSON BURTON: Mr. Harris.

MR. HARRIS: I'm John Harris. I've been involved with horses virtually the last 40 years or so. I've

served on some different horse organization boards. I was sort of surprised to be appointed to this board. It's something that I feel like I can do a good job on, and feel the Governor has done a good job in his appointments in getting people that are more involved in racing on the board. And we hope to move racing forward.

As you know, racing has got several challenges right now, but it's a sport that goes way back and we feel that it's important for California to have a viable industry and hope that I can move it forward.

CHAIRPERSON BURTON: How many members are on the Board now?

MR. HARRIS: There are seven. It's the full board now.

CHAIRPERSON BURTON: You finally got a full board?

MR. HARRIS: That's right.

CHAIRPERSON BURTON: How long did that take?

MR. HARRIS: Well, it took awhile, but basically they always had a quorum, but it got down to four and now it's now back up to a full board.

CHAIRPERSON BURTON: Do you have a position on account wagering?

MR. HARRIS: Well, I'm supportive of account wagering. I think with the day's world that it's moving

that direction with the traffic and the inability of people to move around, especially in southern and northern California that account wagering would allow people to wager on horses that can't physically get to the track. And the combination of television will hopefully bring more fans in.

I know there's been some opposition to it, but I think that, you know, some of the opposition can be overcome hopefully and something that other states -- there's about ten other states that have it and it's proven that it's working. So I'm hopeful that, you know, sometime we'll get it in California.

CHAIRPERSON BURTON: Do you know if the industry has any programs to try to deal with those with quote "gambling problems"? Do they do much?

MR. HARRIS: Yeah, I think that really racing doesn't really produce as many, you know, people that have gambling problems than some of the other types of gambling, but racing does support, there's sort of like a gamblers anonymous group that some funds from racing is going into.

I think actually in the account wagering bill there's some monies that go to that. So I think racing is very cognizant of that as being a problem of, you know, anytime there's wagering that we need to take that into

consideration.

CHAIRPERSON BURTON: And just lastly, what's the status of, you know, the back-stretch employees?

MR. HARRIS: As far as which aspect of it?

CHAIRPERSON BURTON: I don't know, as far as, shall we say, the quality of life or not.

MR. HARRIS: Well, I think that's one thing that this board wants to, you know, take a good look at and try to make the back-stretch housing as good as at all possible and ensure that it complies with any local, you know, housing ordinances and oversight.

And, perhaps, in the past, I think sometimes it hasn't been focused on that much. But right now I think people live on the back stretches have, sort of, a different type of existence. It's not really a family type of environment, but the -- from what I've seen, especially since there's been some improvements made, that the facilities are adequate. I think the key is to keep the enforcement going and make sure that it doesn't start to slip.

CHAIRPERSON BURTON: Do you think the industry would be well served if they banned George Andres from going to the track?

(Laugher.)

MR. HARRIS: No, that would be terrible.

(Laughter.)

CHAIRPERSON BURTON: Senator Johnson.

SENATOR JOHNSON: No questions.

CHAIRPERSON BURTON: Senator Karnette?

SENATOR KARNETTE: No questions.

CHAIRPERSON BURTON: Senator Romero?

SENATOR ROMERO: Thank you. I was going to ask the question on back stretch workers, but I appreciate that Pro Tem has already addressed that.

CHAIRPERSON BURTON: Senator Knight.

SENATOR KNIGHT: Thank you, Mr. Chairman.

(Laughter.)

CHAIRPERSON BURTON: Would do you think about that highway that goes up?

(Laughter.)

SENATOR KNIGHT: All three of them. No. I get another question. Are there any impediments provided by the State to horse breeding in California? And if not, what can we do to encourage horses breeders to come to California? We've got the perfect climate, the geography. Why don't we have more?

MR HARRIS: We're third right now, behind Kentucky and Florida. And we have really improved the quality. The total numbers are about the same over the last few years, but we stand some of the better stallions

in the country, Seize Tizzy, that actually stands on our farm, was number one in the country for awhile.

So its improving. I think a lot of it is going to go with the racing as a whole, if we can make that stronger out here and see more. I mean Kentucky is tough to compete with because there is so much money back there and that's sort of a nucleus for, you know, all of the midwest and east to have horses there. But we're holding our own.

I mean some of the things like the sales tax on breeding stock is a little bit of a problem. In Kentucky you don't have to pay say sales tax on breeding stock. But I think California can, you know, gradually improve.

SENATOR COSTA: Senator Knight, you're exactly right. I learned recently that Kentucky has over a two billion dollar a year breeding industry there. And I know that John Harris has been one of the key proponents on the whole Cal bred program, in terms of building it up and expanding it and putting us this third in the nation.

SENATOR KNIGHT: It's a good healthy industry and there's no reason why we shouldn't be number one in the country.

MR. HARRIS: I mean, you don't like to benefit from someone else's problems, but Kentucky has had this problem with their grass back there, that there's some

kind of a toxin that develops in the horses that's --

CHAIRPERSON BURTON: It's all the blue paint, isn't it?

(Laughter.)

MR. HARRIS: And they've lost a lot of foes this year and actually some of the mares are shipping to California and fortunately we don't have it in California, so that --

SENATOR KNIGHT: We need to keep it out, too.

MR. HARRIS: Yeah, definitely.

CHAIRPERSON BURTON: John, did you bring any family?

MR. HARRIS: No. I just Here with Costa.

(Laughter.)

CHAIRPERSON BURTON: Witnesses in support?

I know that Linda Muer was here earlier. She stepped out.

Any witnesses in opposition?

Hearing none, I'll move the nomination.

COMMITTEE SECRETARY WEB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEB: Knight aye.

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEB: Romero aye.

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEB: Johnson aye.

Senator Burton?

CHAIRPERSON BURTON: Aye.

COMMITTEE SECRETARY WEB: Burton aye.

CHAIRPERSON BURTON: Congratulations, John.

MR. HARRIS: Thank you.

(Applause.)

CHAIRPERSON BURTON: If you can't keep Andres out of the track, let him pick a couple winners, will you.

MR. LANDSBURG: He'll have to consult with me on that.

I'm Alan Landsburg. I've spent a great deal of my career in television and motion pictures, 40 years of it. But the last 25 I've split my time between being involved in the owner, breeding and, in fact, oversight in racing as a member of the Thoroughbred Owners of California.

I believe that the industry has ways in which it can be improved, in particular its outreach to people who should be brought in to see the spectacle and understand

why it's an important sport. And it's an important sport for more than one reason.

It supports a great deal of agriculture in this state, some two to three billion dollars worth. And it's our job, I think, on the Board to help nurture what can be changed in the future of racing and make it somewhat better. I hope that my time on the Board can be spent doing that.

CHAIRPERSON BURTON: Your position on account wagering?

MR. LANDSBURG: I think account wagering is, in the end, necessary, because it's too difficult to get to the race track for most people. And as we introduce people to racing, personally, account wagering will provide a means for them to continue to support and get more involved.

It's got to be highly controlled and I think it's got to be specifically taken away from the power of people under 21 to be involved in it, but other than that, we are in an age of electronic communication. And electronic communication will make possible the kind of account wagering that can be sensibly monitored instead of the way it goes now, which is 800 telephone numbers reaching out to Saint Thomas and Nassau, and the money draining away from the economy, both of our racing and the State.

CHAIRPERSON BURTON: What, in fact, I probably should have asked this to John too, but the Board has to approve track closures.

MR. LANDSBURG: Track closures?

CHAIRPERSON BURTON: Yes.

MR. LANDSBURG: Not to my knowledge.

CHAIRPERSON BURTON: But would you approve the transfer of the dates?

MR. LANDSBURG: Yes, we do have to approve transfer of dates.

CHAIRPERSON BURTON: Somebody could close a track, but they have to come to you to basically keep the days of racing. I always wondered how that worked. San Fran did that. What was wonderful they developed the property and kept the money from the horse racing. It seemed like a good deal.

MR. LANDSBURG: Well, at this point in time, with racing hanging on by threads in some cases, the closing of a track may not help racing. We don't believe and I don't believe, personally, that closing a track does anything good for racing, because it takes away the training facility and a place to keep horses who are not ready to go on to the actual sport race track, but are being -- are recovering from injuries or just learning how to race.

CHAIRPERSON BURTON: What's the status of the

ones that look like -- there's always talk of Bay Meadows closing, right?

MR. LANDSBURG: There has been, but I don't think at the moment -- Bay Meadows has been sold as a unit. Its land is gone. It's got to be replaced by another track someplace else because eventually the lease will give up and the track will go away, except that it's --

CHAIRPERSON BURTON: And they'll send the days up to Gold Gate, right?

MR. LANDSBURG: The days should go to Golden Gate. They don't have to be applied for and approved.

CHAIRPERSON BURTON: So there would be only one track north --

MR. LANDSBURG: Right.

CHAIRPERSON BURTON: And then what's happening down south, Hollywood Park?

MR. LANDSBURG: Well, Hollywood Park is now owned by Churchill Downs, which is a large enough and strong enough entity in racing to support it.

CHAIRPERSON BURTON: The same people don't they own Santa Anita, too?

MR. LANDSBURG: They own Santa Anita as well. And they also own Gulf Stream Park and three other race tracks.

CHAIRPERSON BURTON: Yeah, but Gulf Stream Park

is not here.

MR. LANDSBURG: No.

CHAIRPERSON BURTON: But I mean the question would be if they owned Santa Anita --

MR. LANDSBURG: I'm sorry, not the same unit. Santa Anita and Bay Meadows is owned by the same company. Churchill Downs owns Hollywood Park. Magna Entertainment owns --

CHAIRPERSON BURTON: Okay, yeah, all right.

MR. LANDSBURG: There's two different entities.

CHAIRPERSON BURTON: So there's, I mean, in theory, ownership competition, ownership something between those two?

MR. LANDSBURG: Yes, there is between those two. And, of course, Del March enters into the mix because it's further south.

CHAIRPERSON BURTON: Yeah, and who owns Del Mar now?

MR. LANDSBURG: Del Mar is a nonprofit organization that's run --

CHAIRPERSON BURTON: I remember that one well.

And there's no talk -- or I mean there's been talk but what are the prospects of either Santa Anita or Hollywood shutting down.

MR. LANDSBURG: Not in the immediate future.

CHAIRPERSON BURTON: Not in the immediate future?

MR. LANDSBURG: Not in the immediate future. I think that the only talk that I know of, and it's just at the moment, is the possibility of building a race track at Davis, and that's Magna's proposal. At least it's in the air. It's not really landed anywhere.

CHAIRPERSON BURTON: Be awfully hot racing up in Davis, today anyway.

(Laughter.)

CHAIRPERSON BURTON: I have a theory that by the year 2012 there will be one race track in the country running 24 hours a day in Omaha and everything is going to be simulcasted.

MR. LANDSBURG: I hope not.

CHAIRPERSON BURTON: I mean, I wouldn't bet my life, the way it's going.

MR. LANDSBURG: I made the prediction ten years ago, that our tracks will finally be reduced, if they keep going the way they're going, to television studios, an area that I'm familiar with.

CHAIRPERSON BURTON: That's kind of what --

MR. LANDSBURG: Then you'd here sound effects of horses and screaming of crowds.

CHAIRPERSON BURTON: Well, if you're directing and writing in them, what the hell.

(Laughter.)

SENATOR JOHNSON: Don't need the horses.

(Laughter.)

SENATOR JOHNSON: It's all digital.

MR. LANDSBURG: That's not an end to be desired, however. There is something beautiful about the sport.

CHAIRPERSON BURTON: Sport of Kings.

SENATOR KARNETTE: And Queens.

CHAIRPERSON BURTON: Did you pick the winner of the Preakness?

MR. LANDSBURG: Yes, but not the second horse, darn it.

(Laughter.)

CHAIRPERSON BURTON: Congratulations on not having a writer's strike by the way.

MR. LANDSBURG: Yes, hopeful.

CHAIRPERSON BURTON: Hopefully that will mean well for the SAG negotiations.

MR. LANDSBURG: I think they're a lock.

CHAIRPERSON BURTON: Do you?

MR. LANDSBURG: Yes, I don't think there's any possible change.

CHAIRPERSON BURTON: You've never seen chalk run out of the money.

MR. LANDSBURG: That chalk is not going to run

out of the money.

CHAIRPERSON BURTON: Good. Senator Johnson.

SENATOR JOHNSON: No questions.

CHAIRPERSON BURTON: Senator Knight?

SENATOR KNIGHT: Excuse me. Alan, we talked before about the medical problems associated with horses and the ability with today's technology to be able to detect minute amounts of caffeine or whatever in a horse, which everybody knows does not affect the performance at all. And I understand you're working on that, but is there any -- do you have a time period that we might have some resolution to that issue?

MR. LANDSBURG: I don't know about resolution, but at least an informed board with an ability to make a decision is part of a process we're now undergoing, with a committee set up to discuss and find solutions to the problems that we now face in medication and security, which are the two things that seem to overlap.

Those committees are due to report by the end of August and report to the Board with specific and sincere recommendations for what the Board can do to enforce a policy that is somewhat different if that turns out to be the recommendations of an industrywide group that is now currently in session working on proposals.

SENATOR KNIGHT: My understanding is, and in

talking to Ray Wood, that there would have to be some legislative action in order to change the ability of the Board to make a reasonable decision?

MR. LANDSBURG: Some or most of the rules are legislative. However, the Board does have a certain amount of discretion in the way these cases come down to the Board. And we are in the process now, and I head a committee that is taking both adjudication, security and medication into the effects so that we can combine and create a policy on which the rest of and which rules can be promulgated.

SENATOR KNIGHT: If there is legislation required, would you certainly get to us as quick as possible?

MR. LANDSBURG: I think that we will get to you if you need that information, because that's our role. However, it is going to be the role of others to bring forth that legislation, because you need a group of medical experts to do so.

SENATOR KNIGHT: I understand.

CHAIRPERSON BURTON: Senator Romero.

SENATOR ROMERO: Thank you. Two questions, if I may.

One of them is just impression, given your back ground, as you see movies, television specials that

perhaps depict horse racing, what are your views, in terms of how the media depicts horse racing and some of the problems that might be associated with it, and that's just from your own background given your own credentials?

But specifically, with respect to this Commission, I'd like to ask with the State Lottery, for example, there are funds that are given back to the schools, albeit I think too small. Within horse racing are there any charitable foundations, educational foundation from which the proceeds of horse racing are given to, and might those be increased?

MR. LANDSBURG: I have a three-part question here. Let me put aside for a moment the treatment of horse racing in general media, because that's a rather larger question. But having been in it, they rarely touch horse racing, because it's not NASCAR. It's not a sport that enlivens the rest of the country, so it rarely deals with horse racing as a media event.

As far as I know, I've made the only two part miniseries that's been made in television in the last decade. It doesn't get the kind of attention it deserves and I've been one of the banner carriers and I can't get them to look.

Now, on the -- I'm sorry just lost the train. The second part of your question.

SENATOR ROMERO: The State lottery, for example, and what about proceeds from horse racing.

MR. LANDSBURG: Yes, I'm sorry. Every race meet has at least one charity day. The charity money, all of the take for that day, all of the track take for that day or a percentage of it now goes into a charitable fund which is distributed at the end of each meeting.

Those charitable funds are delegated 50 to 60 percent, although not required, generally go to charities associated with racing. The rest go into local charities that take care of the people within the horse racing zone, that is north has its own, south has its own. And we, as the Board, get a report from each track as to what they are doing with their funds.

It's highly regulated, and they can't give the funds simply willy-nilly. They must give it to local and statewide charities, if they so choose, and into the coffers of charities involved with the support of people within the racing community.

SENATOR ROMERO: And if I can just ask is that public information where the funds are distributed?

MR. LANDSBURG: Absolutely. It is public information. It's part of every board hearing. And every time a licensee comes up, they are required to hold these charitable days and deliver the monies to the charities at

the end of their meet.

SENATOR ROMERO: Thank you, I'd be interested in learning more about this as we go forward.

And just in closing, if I can comment. I used to very much like the Under Sea World of Jacques Cousteau.

(Laughter.)

MR. LANDSBURG: So did I, except I got water logged.

CHAIRPERSON BURTON: Senator Karnette.

SENATOR KARNETTE: I agree with what you said about racing, if we don't get people interested in it and do something it's not going to be around, and I think Senator Burton may be right, I hope not. But do you have, from your experience and your ability to work with a lot of people, do you see any future of getting the breeders and the owners and the trainers and all the other people that should be involved to realize the seriousness of this problem and get horses closer to the people.

I mean, if you can't go touch a horse and walk around and see them training, I mean people just -- they've got to know they're real beautiful creatures. What are we going to do, because I don't want it to be like Senator Burton said?

MR. LANDSBURG: Well, to a large extent, the promotion of racing falls to the racing associations and

they're licensing before the CHRB. They have a way of doing things at the moment. And because I've been involved in communication, I've made it my business as part of the thoroughbred owners and now as part of the CHRB to try and see if there aren't new ways.

And, in fact, I think I've been able to encourage a couple of new drives, at least within the industry, to try and find the audience that they need.

Essential to it is communication via the computer, which is a younger person's element. And within that element, I would hope that we can be more creative in outreach to the industry. And now that I have a place where I can make those suggestions with a little force behind them, I think you'll begin to see it, at least, I hope. That's my desire as part of the Board.

SENATOR KARNETTE: Well, I would just like to say, as a legislator, if there's anyway I could help, I'd really like to.

MR. LANDSBURG: Thank you. I may call back on you.

CHAIRPERSON BURTON: I think they're going to make a movie out of the New Sea Biscuit Book? And if they do, will it be better than the one with Barry Fitzgerald?

MR. LANDSBURG: Because of my dual role, when I read the book, which is a book I recommend to one and all,

Sea Biscuit, an American Legend is a wonderful telling of racing stories, albeit in the late 1930s.

However, I have talked to Universal and I have talked to the producer of the film a women named Jane Lyndell who has been assigned to it. They don't have a script yet, but I am the unpaid consultant to them, because I said if you make this picture badly, I'll chop your heads off.

(Laughter.)

CHAIRPERSON BURTON: Did you ever see the one with Barry Fitzgerald?

MR. LANDSBURG: On Sea Biscuit?

CHAIRPERSON BURTON: Yeah.

MR. LANDSBURG: I'm not old enough.

(Laughter.)

SENATOR ROMERO: You set yourself up on that one.

MR. LANDSBURG: No, I truly haven't.

CHAIRPERSON BURTON: I forget the name, but it runs on Turner Classic Movies, but it had Ward Bond. And he had great faith in the horse, even though it was finishing down the track quite a bit when it first started out.

MR. LANDSBURG: Yeah. Actually, it was after his injury. He was badly injured, at one point. And he and his jockey, who has was also badly injured, formed the

lamest team that ever was put together that won races and created glory.

CHAIRPERSON BURTON: Did you bring any family with you?

MR. LANDSBURG: No.

CHAIRPERSON BURTON: Any witnesses in support? Witnesses in opposition?

SENATOR JOHNSON: Move approval.

CHAIRPERSON BURTON: Come right up, gentlemen.

(Laughter.)

CHAIRPERSON BURTON: Move the nomination. Call the roll.

COMMITTEE SECRETARY WEB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEB: Karnette aye. Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEB: Knight aye. Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEB: Romero aye. Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEB: Johnson aye. Senator Burton?

CHAIRPERSON BURTON: Aye.

COMMITTEE SECRETARY WEB: Burton aye.

CHAIRPERSON BURTON: Congratulations.

MR. LANDSBURG: Thank you very much.

(Applause.)

CHAIRPERSON BURTON: Daniel Zingale, Director Managed Care.

Senator Kuehl.

SENATOR KUEHL: Thank you, Mr. Chairman. I'm just here to speak very briefly in favor of my friend Daniel Zingale, who I think was a fabulous pick for this agency. As you recall, Mr. Chairman we had high hopes at the time of the legislation about how this agency would function and how it might improve the delivery of health care services in California.

And, in deed, I've known Dan since the mid-nineties and knew him in various other jobs, but now, most particularly, what he's already accomplished, as the acting director. I can't think of a better pick, and I, of course, urge your support.

MR. ZINGALE: Mr. Chairman, since you were talking about movies, let me just briefly mention that I think the moment in a motion picture that most Californians identify with HMOs was a movie called As Good As It Gets, where the Helen Hunt character cursed out

HMOs.

We're trying to change that in terms of people's perception. Since launching the Department last summer, we've operated on one premise when Californians are sick and in need to see their doctor, they don't want to stand in line, fill out forms, wait on hold or listen to excuses.

They want the health care to which they're entitled and in which they have invested through their monthly premiums and copayments.

Under our full enforcement policy, the Department has strongly protected consumer rights, pursuing every violation of the law, issuing $1.5 million in fines, taking over failing HMOs and protecting consumers wherever necessary.

But even the largest fine is too little too late. We work to stop harm before it happens and resolve problems early and effectively. A year ago consumers hit the wall when trying to resolve an HMO problem. Today, because of the new patient right, implemented and enforced by this department, Californians have a range of assistance options available to them.

First, we work to resolve a consumer problem up front, before we have to put a price tag on any Californian's health tragedy. More complicated problems

can be resolved for consumers by filing a formal complaint, that is reviewed by our consumer rights experts and in-house health care professionals.

Finally, on medical questions or coverage for experimental treatments, our independent medical review program ensures that doctors tell HMOs what to do.

We have developed a marketing campaign for our HMO help center and for consumer's rights and responsibilities and we're working on an awareness effort targeted to reach people with HMO problems.

We're working to provide accountability throughout the managed health care system including prompt payment of claims to providers and we see the long-term solution for a better managed health care system. The only silver bullet is to bring managed health care back to its roots of better preventive care, providing more people with quality coverage by promoting preventive care that saves lives, cuts costs and preserves precious health care dollars for when we need them most.

We have built a solid control tower to protect HMO consumers and provide stability in the managed health care industry. Now, we need to make sure consumers know about us and to make sure that the HMOs fly in the right direction.

Thank you.

CHAIRPERSON BURTON: Thank you. Under the current law managed care regulates the HMOs and some PPOs while the Department of Insurance regulates the PPOs that aren't regulated by the Department of Managed Care, which would be, I guess, the indemnity plans and specialized plans, does that make any sense?

MR. ZINGALE: Actually, the legislature asked us to study that question. The Department is currently looking at that. I had a good meeting with the Commissioner of Insurance recently. It's at least as confusing as you just described it to consumers. We're learning that from the consumer hotline when people call.

And frankly it goes beyond that. People who have problems with Medicare, sometimes have to call the federal government. If they have problems with Medi-Cal, it's DHS. So it's all --

CHAIRPERSON BURTON: Well, yeah but you can't -- you know, one is federal and one is state, but I mean both of these are state. Who did that, us?

MR. ZINGALE: A combination of the -- I'm not a very good historian on all that on what led us to that, but it is for consumers. I think you're right, a good start would be for this Department and the Department of Insurance to figure out if there's a way we can make that less confusing for consumers.

CHAIRPERSON BURTON: I'm wondering and I have no recollection if I ever had any collection, and --

SENATOR JOHNSON: We'll make a note of that.

CHAIRPERSON BURTON: Yeah. You must collect before you recollect.

SENATOR JOHNSON: Exactly.

(Laughter.)

CHAIRPERSON BURTON: It seemed to me that I guess it was the industry that wanted to stay under insurance. I mean, do you have any -- but I guess it's something that you are doing a study on it, you and the Department of Insurance?

MR. ZINGALE: Right.

CHAIRPERSON BURTON: And when do you think that will be -- the study is going to show people are confused and then you're going to recommend --

MR. ZINGALE: We'll make a recommendation. I don't want to prejudge the process because there's a lot of research to do on it.

CHAIRPERSON BURTON: Well, there isn't a hell of a lot, people are confused, and the question is should they be combined and would the Insurance Commissioner give up jurisdiction?

MR. ZINGALE: He seems not at all territorial about this issue. He seemed very open. What I did in our

conversation is I tried to separate that into at least two issues, which is can we address the consumer point of entry problem separate from the regulatory -- the bigger issue, of regulation, because apparently there are some complex issues involved with moving the regulation of some of these indemnity plans over to us. Some are plans that don't -- health is just a small piece of their portfolio even though they do health care, but I've just got to believe there's a way we can make that invisible to the patients at least.

CHAIRPERSON BURTON: When they call into the hotline, they get a person or they get a computer?

MR. ZINGALE: They get a person.

CHAIRPERSON BURTON: Well, then if they get a person and the person said what is your plan and they say it's Aetna Insurance Indemnity, then would the recipient of the call say, you have to call 1-800, you know, help over there or is that what you're trying to figure how to do?

MR. ZINGALE: In the interim we' re --

CHAIRPERSON BURTON: Would you take down the complaint and you can send it over to the Insurance.

MR. ZINGALE: We help them.

CHAIRPERSON BURTON: And vice versa.

MR. ZINGALE: And we have permission from the

Department of Insurance to do that, yeah.

CHAIRPERSON BURTON: Okay. When there were negotiations between Sutter and Blue Cross and there was a breakdown in service, that I guess did you learn from that how to prevent breakdowns in service?

MR. ZINGALE: I think there were a number of important lessons from that and other disruptions that have happened just in the few months we've been in existence.

For example, just to give you an anecdotal example that I think makes it clear that patients were affected by that in very real terms, we had a woman whose son had a blood clot of the brain who was scheduled for a procedure in a Sutter facility, her insurance was Blue Cross. She we told by both Sutter and by Blue Cross that the procedure could not take place as scheduled because of their contract dispute.

In fact, you all made that illegal in your HMO reforms of 1999, so when she called the help center, we were able to quickly inform her of that, get the plan on the line and reverse their decision. But that's a dramatic illustration of what a lot of patients went through in terms of uncertainty and mixed signals and misinformation.

CHAIRPERSON BURTON: Senator Johnson.

SENATOR JOHNSON: Your statement seemed to me to be basically entirely about looking at the activities of the Department coming from the perspective of defense of consumers and protection of consumers.

Since you don't touch on it, I will ask, what do you think is the role in making this whole process more user friendly for the regulated entities, so that it's easier for them to understand the rules of the game or the rules of engagement and how they're going to be judged and so on, making it easier for them in the process? Is there a role or is that totally an adversarial situation?

MR. ZINGALE: No, I don't think that it is. I think, in fact, we've made some real progress in terms of giving the regulated entities a more consistent and efficient regulatory response. They don't have to wait unfair amounts of time to get decisions out of us, nor do they have to sort of try to guess which way we'll come down on issues. We're trying to be much more consistent and efficient in those decisions.

But my background is as a patient advocate. And I don't apologize for that. I think having a patient centered approach to the oversight of HMOs is a good thing, but no I don't think it has to be done in an adversarial way. And I genuinely can tell you we've found ways to make the process more efficient for the plans.

SENATOR JOHNSON: Well, you know, I view your responsibility as being somewhat of a referee or an umpire as well. And if you go in with the bias that's slanted too much in one direction or the other, in the past predecessor agencies have been criticized for being to lax, too friendly with the regulated entities. And if you go in with an attitude that says, you know, my job is to defend the consumer at all costs, I think that's just -- you know, it's going in the wrong direction as well.

MR. ZINGALE: I understand what you're saying. I can give you one example that might reassure you to some extent. We have a pilot program in the HMO Help Center, where when a patient, like the one I described earlier, calls with a problem, they don't usually call because things are going well, but they call with problems with their HMO, two health plans have voluntarily agreed to do a pilot program with us where we get the plan rep on the found at the same time with the patient and our patient right's expert and try to resolve the problem on the phone before anybody gets off, before any forms are filed, before there's any legal action, before it becomes an adversarial situation where harm has already been done.

So I think the plans would probably be as excited about that approach as we are.

CHAIRPERSON BURTON: Senator Karnette.

SENATOR KARNETTE: No questions.

CHAIRPERSON BURTON: Senator Romero.

SENATOR ROMERO: Thank you. And I applaud you in trying to emphasize prevention. Let me ask you with respect to prevention as it pertains to sexually transmitted diseases and what your thoughts are on this, because I was reading the statistics that indicate that the percentage of HMO's offering prevention services tied to sexually transmitted diseases has dropped from 50 percent to 24 percent.

But the percentage of HMOs offering HIV and AIDS services prevention services have dropped from 47 percent to 28 percent. I represent a good part of Los Angeles County especially within the Latino community, and by the way Viena Estad is in my district and Oscar, speaks very highly of you. Can you tell me what you will do to -- on some of the issues like Chlamidia.

We have information. We can do prevention, yet in LA county, it's up. What will you do and how will you bring a culturally appropriate angle to getting out prevention services, not only the services, but the information for a very diverse community in -- well, statewide, but I'm interested especially in LA county.

MR. ZINGALE: I think the statistics you referred to are from a recent UC Berkeley study, which is very

troubling if you consider that the basic founding principle of managed health was that we would invest aggressively in preventive health and therefore save dollars, so that when people truly need care, they would get it.

And the evidence -- that study suggested in the last three or four years they've actually been moving in the wrong direction on STD prevention and HIV/AIDS prevention in particular.

The numbers for smoke cessation are also very troubling. A majority of adult smokers who are enrolled in HMOs in California say they've received zero smoking cessation even though there are proven interventions that will save a tremendous amount in terms of dollars, human suffering and lives.

What we can do now, as a Department, is we can vigorously enforce the preventive health mandates that you included in the 99 reforms. There is resistance in the industry to investing in preventive health, some of what I understand. Today's enrollees are much more transitory that anyone believed they would be, so the long-term investment in someone's health does not necessarily benefit your bottom line, if you look at it from a plain parochial point of view.

Many of the plans are under tremendous short-term

pressure from their shareholders on a quarterly basis, and preventive health investments don't always payoff in that way. But now it's the law in certain areas in terms of mammograms, in terms of diabetes.

We had a letter from a man recently who couldn't get his $2 diabetes test strips reimbursed, a relatively low cost intervention that obviously saves a lot in terms of dollars. And mental health, which I view as a preventive health benefit as well. There are now mandates in those areas that we can enforce that are law.

Beyond that, I spend a lot of time talking to the plans not in an adversarial way but asking them to voluntarily do a better job in the area of STDs, in the area of smoking cessation, in the area of drug and alcohol abuse prevention.

SENATOR ROMERO: And if you could address the culturally appropriate as well.

MR. ZINGALE: Sure. I mean one of the things we can do at the Department is set a good example. Our help center, which is available 24 hours a day, every day of the year, is available in any language any Californian calls in. That can be arranged through translation services and having in-house Spanish speakers.

We're producing our materials at least in English, Chinese and Spanish. So what I'd like to do is

look, not too far down the road, at how we can hold the HMOs to the standard that we're able to achieve in terms of customer service.

The State doesn't have a reputation for doing the best in terms of excellence in customer service. If we can do that, I think it's fair for us to ask the plans to be as culturally sensitive and responsive.

SENATOR ROMERO: Thank you.

CHAIRPERSON BURTON: If I can, before I call on Senator Knight. On the sexually transmitted diseases, I mean I can only think of two preventions condemns and abstinence. I mean, neither seems to be a fairly high cost deal.

MR. ZINGALE: Right.

CHAIRPERSON BURTON: I mean, in other words, they are not, either with targeted --

SENATOR JOHNSON: A well funded investment, and so on.

CHAIRPERSON BURTON: I mean would targeted communities not sending out information and not -- I can't remember, you know, the Speier Bill or somebody's bill where you have to provide condemns or not.

SENATOR KNIGHT: Put it on the condemn itself.

CHAIRPERSON BURTON: But basically, I mean that doesn't -- when you get into diabetes, when you get into

prostate cancer, when you get into mammograms, you may be getting in costs, you may be get into something.

I mean, this is like chump change. I mean am I missing something?

MR. ZINGALE: No, you're exactly right. That is why I think it's a good example of how tragic it is that we're failing to invest in those low-cost proven interventions, especially when you consider that in the case of some sexually transmitted diseases like, HIV, the cost of the drugs alone now is $15,000 a year. That's apart from all the auxiliary medical care that you need. No question that that would make sense for everyone.

CHAIRPERSON BURTON: Senator Knight.

SENATOR KNIGHT: Thank you, Mr. Chairman.

Do you know a Joe Gottfried?

MR. ZINGALE: I don't think so, sir.

SENATOR KNIGHT: That's good. Boy.

(Laughter.)

CHAIRPERSON BURTON: Dodged that one.

(Laughter.)

SENATOR KNIGHT: Second question.

SENATOR ROMERO: Should we know?

SENATOR KNIGHT: No, no, no, but I just wondered.

CHAIRPERSON BURTON: Well, let me get that off my chest.

SENATOR KNIGHT: Yeah, Inyo county a very small county in the eastern side of the Sierras, the HMOs left the county.

MR. ZINGALE: Yes.

SENATOR KNIGHT: The people who were utilizing those HMOs now have no place to go. Is there anything in mind or any program that you're thinking of to satisfy some of these requirements?

MR. ZINGALE: That's probably something for you, the policymakers, to contemplate. We don't have the authority, at this point, to stop a doctor from leaving an area or moving out of State or an HMO --

SENATOR KNIGHT: Or an HMO.

MR. ZINGALE: -- from choosing not to do business in an area.

SENATOR KNIGHT: Okay. The next one, is it your opinion that the HMO's are obligated to provide the best possible health care in terms of technology from whatever place?

MR. ZINGALE: I would use the term medically necessary. I think that would be more consistent with the law.

SENATOR KNIGHT: What is --

MR. ZINGALE: I think I understand what you're asking, Senator. In other words, if there's a center of

excellence somewhere, is every HMO obliged to send every enrollee to that center of excellence.

SENATOR KNIGHT: No. Is the patient entitled to that kind of health care?

MR. ZINGALE: I think the patient is entitled to medically necessary care.

SENATOR KNIGHT: Thank you.

SENATOR KARNETTE: That takes out face lifts.

(Laughter.)

SENATOR KNIGHT: No comment.

(Laughter.)

SENATOR KARNETTE: I have a question about you were talking about AIDS and HIV, and the information. But one of the problems, is it not, that a lot of people, even though condemns would really -- and abstinence are the two things that prevent it. But we have to tell people that over and over and over, and that's what costs the money.

MR. ZINGALE: The counseling, that's right. You know one comparison I sometimes use is seat belts. We all know that seat belts save lives. It's very basic. It's as basic as STD prevention, but it helps remind people over and over again that they have to do it.

I have to admit when my six year old from the back seat, says, "Papa, put your seatbelt on," it's a good reminder, even though I know better. I think it's like

that when it's broken down to the basics.

SENATOR ROMERO: Can I jump in and just ask a follow-up question. You talked about what's medically necessary. Is prevention, again, going to like STD prevention, is that medically necessary?

MR. ZINGALE: Yes, in my view, it is.

CHAIRPERSON BURTON: Is there a distinction between necessary and desirable?

MR. ZINGALE: Yes.

CHAIRPERSON BURTON: Is it closer to desirable than necessary?

MR. ZINGALE: The law is necessary.

CHAIRPERSON BURTON: No, no. The law says that they must provide, but I was talking about what Senator Romero was talking about. And I think it's important, I just wondered whether it was medically necessary or medically desirable?

MR. ZINGALE: In my view, preventive health is basic health care, but again the law is only specific in those areas where the reforms identified mammograms, diabetes and mental health. That's an open question, I think, when it comes to substance abuse treatment.

CHAIRPERSON BURTON: And then what Senator Knight was talking about, you can't stop somebody from going out of business, not even a utility.

(Laughter.)

CHAIRPERSON BURTON: But is there something the Department could do to provide emergency alternate service in a place like Inyo. I mean, what happens everybody is back on a fee for service or where the hell are these people?

I mean, is there something that you can do, is there something that we should enact to allow you to do something, because I don't think we can pass a bill telling somebody, you know, they've got to keep serving people, they've got to keep doing something? But I mean, to rush in and fill the void, is there something that you can do under your current charter or is there something that we could maybe change to take care of a situation like that?

MR. ZINGALE: Currently, we do have some continuity of care laws, which we can use at least in transition. They're not long-term solutions for those patients, but we soften the fall for patients in situations and whatever the disruption is, whether there is a contract breakdown or a --

CHAIRPERSON BURTON: So you can pick up the costs of fee for service or what? I mean, how would that work?

MR. ZINGALE: We can oblige the HMO to provide some continuity of care for certain situations. For

example, if someone has an acute condition or is in late-stage pregnancy, there are some areas like that we can intervene. There are other continuity of care bills in discussion in the legislature this year, I know.

CHAIRPERSON BURTON: And then the -- and I'm not sure what the question was getting at, but Senator Knight said, if somebody has got, and I guess the easiest and stupidest example would be, there are MRI machines which if you have a tendency to be a little bit claustrophobic, can get to you. Then there's some open MRI machines.

And I mean, this is a very far reach example, but I mean, you know, would everybody have to have an open MRI machine -- I mean he's talking about like the optimum versus what would be basic and take care of the person's thing. I didn't quite get what the answer was, because the answer you said what's medically necessary.

Now, what's medically necessary is an MRI. And it doesn't have to be open, unless maybe you know, he says Doctor, I do this and I go completely nuts.

MR. ZINGALE: Right. The definition of medical necessity would be left to doctors. So that's what I think the heart of the reform was the independent medical review, because ultimately it would be a panel of independent doctors that we've now set up that have no economic interest in the health plan who would make a

determination as to whether that procedure was necessary.

I could see just in that hypothetical situation, doctors thinking that maybe someone's psychological condition relative to that procedure was such that they did, in fact, need -- it was medically necessary for them to have the one over the other.

CHAIRPERSON BURTON: Okay, all right.

Did. I interrupt you, Senator Karnette, or are you through?

SENATOR KARNETTE: I'm finished.

CHAIRPERSON BURTON: Did you bring any family with you?

MR. ZINGALE: I invited my sons who are six and two. They respectfully declined.

(Laughter.)

CHAIRPERSON BURTON: Smarter than the old man.

Witnesses in support?

MS. CAPELL: Beth Capell on behalf of Health Access California, and also the Service Employees International Union. We're pleased to be here today. We have found that the new Department of Managed Care and its director have a distinctly different attitude towards consumers and also towards workers than their predecessor.

I also want to respond however to Senator Johnson's questions, because one of the things that we

discovered after the Patient Bill of Rights became law is that the health plans had been as annoyed by erratic enforcement as we were. Knowing what the rules of the game are is an important thing for consumers and also for those who are regulated by the Department.

We've worked very closely with the Department during its first months of operation, and have found the door open.

CHAIRPERSON BURTON: Yes.

MS. SWARTZ: Marjorie Swartz, representing Center on Law and Poverty. I'd been warned that the Chair was above average impatient with the length of time that these confirmations were taking, so I'll keep it brief and besides I know he's not as interested in this.

CHAIRPERSON BURTON: Times up, then.

(Laughter.)

MS. SWARTZ: I know you're not as interested as you are in horse racing. We are strongly supportive of Mr. Zingale's appointment and confirmation. As you have heard, the HMO call center is extremely receptive right now to consumers. The advocates that we deal with have had very good experiences.

One of the reforms that he has implemented is having a medical expert right on the premises. And our advocates feel that this has expedited resolution of

problems to a great degree. Also, we have found that his style is to bring in all involved parties, to talk about the issues and try to resolve them before they become escalated.

And I think that as Ms. Capell said, Senator Johnson would find that the plans are happy with that approach. And it does improve their relationships with the Department generally.

CHAIRPERSON BURTON: Thank you.

Witnesses in opposition?

Move the nomination.

SENATOR KARNETTE: Move.

COMMITTEE SECRETARY WEB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEB: Knight aye?

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEB: Romero aye.

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEB: Johnson aye.

Senator Burton?

CHAIRPERSON BURTON: Aye.

COMMITTEE SECRETARY WEB: Burton aye.

CHAIRPERSON BURTON: Congratulations. Thank you.

MR. ZINGALE: Thank you very much.

(Applause.)

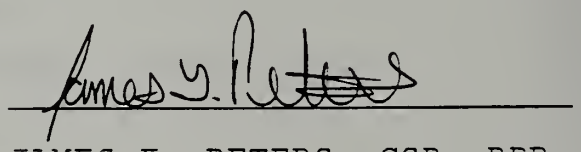
CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules hearing was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of June, 2001.



JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
License No. 10063

428-R
Additional copies of this publication may be purchased for $3.00 per copy
(includes shipping and handling) plus current California sales tax.

Senate Publications
1020 N Street, Room B-53
Sacramento, CA 95814
(916) 327-2155

Make checks payable to SENATE RULES COMMITTEE.
Please include Stock Number 428-R when ordering.

L500
R9
2001
no. 20

CA
Legislature

HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

DOCUMENTS DEPT.

JUL 18 2001

SAN FRANCISCO
PUBLIC LIBRARY

STATE CAPITOL
ROOM 3191
SACRAMENTO, CALIFORNIA

MONDAY, MAY 30, 2001
1:35 P.M.

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 3191

SACRAMENTO, CALIFORNIA

WEDNESDAY, MAY 30, 2001

1:35 P.M.

REPORTED BY:

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

APPEARANCES

MEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to Senator Johnson

TIM SHELLEY, Consultant to Senator Karnette

CHRIS BURNS, Consultant to Senator Knight

RYAN SHERMAN, Consultant to Senator Romero

ALSO PRESENT

MELISSA M. MEITH, Director
Office of Administrative Hearings

LINDA MOULTON-PATTERSON, Member
California Integrated Waste Management Board

MICHAEL PAPARIAN, Member
California Integrated Waste Management Board

HARROLD SCHAITBERCER
International Association of Fire Fighters

APPEARANCES CONTINED

ALSO PRESENT

JOHN J. TENNANT,
State Fire Marshal

DAN TERRY,
California Professional Fire Fighters

INDEX

	Page
Proceedings	1
Governor's Appointees:	
MELISSA M. MEITH, Director Office of Administrative Hearings	1
Statement by Ms. Meith	1
Motion to Confirm	2
Committee Action	3
LINDA MOULTON-PATTERSON, Member California Integrated Waste Management Board	3
Statement by Ms. Moulton-Patterson	3
Statement of Support by Senator Chesbro	5
Questions by Senator Romero	
How have you begun to address concerns regarding the State Auditor's concerns over your ability to fine?	8
Give information on how the Board has been arguing for fines for people who aren't upholding the law.	8
What is your philosophy regarding cities who are out of compliance but are making progress?	9
Questions by Senator Knight	
What can you do to be able to allow waste tires to be used for oil and metal and whatever else?	11
Motion to Confirm	12
Committee Action	12

INDEX CONTINUED

	Page
MICHAEL PAPARIAN, Member California Integrated Waste Management Board	13
Statement of support by Senator Chesbro	13
Statement by Mr. Paparian	15
Questions by Senator Romero	
Delineate your philosophy on fining cities out of compliance	17
Motion to Confirm	18
Committee Action	18
JOHN J. TENNANT, State Fire Marshal	19
Statement by Mr. Tennant	19
Witnesses in Support:	
DAN TERRY, California Professional Fire Fighters	21
HARROLD SCHAITBERCER, International Association of Fire Fighters	22
Motion to Confirm	24
Committee Action	25
Termination of Proceedings	26
Reporter's Certificate	27

PROCEEDINGS

SENATOR JOHNSON: Melissa Meith, Director, Office of Administrative Hearings. And before you begin your presentation, you've got to tell the acting chair how you pronounce your name.

MS. MEITH: You did it correctly. It's Meith. Thank you.

SENATOR JOHNSON: Good afternoon.

MS. MEITH: Senator Johnson and members. I am Melissa Meith. I'm honored to be here today to ask for your recommendation that I be confirmed as Director of the Office of Administrative Hearings. OAH is basically the State's own court system. OAH judges hear and decide disputes between the State agencies and individuals they regulate.

For example, if a real estate agent is notified that his or her license is going to be revoked and the licensee wants to appeal that decision, OAH provides the Court room, the judge and follows the Administrative Procedures Act to reach a decision in that case.

I'm pleased to be serving as Director of OAH. I've spent 20 years practicing administrative law as the State's Counsel and also in private practice. I respect and understand the importance of OAH and I'm committed to continuing and furthering its mission of providing fair,

accurate and accessible hearings for all of the parties.

I'm also studying ways to make the process more efficient and timely. For example, forms can be consolidated, processes in the four OAH offices can be made consistent, and our regulations need to be reviewed and updated. We're in the process of doing all those things. And we can learn from processes that have worked in other states and in our own state courts to make justice more speedy and more understandable for all involved.

Thank you. That concludes my prepared statement. I'd be glad to answer any questions.

SENATOR JOHNSON: Well, let's see if there are any.

Senator Knight, have you any questions?

SENATOR KNIGHT: No questions.

SENATOR JOHNSON: Senator Karnette?

SENATOR KARNETTE: No questions.

SENATOR JOHNSON: Do you have any members of your family here?

MS. MEITH: No, not today.

SENATOR JOHNSON: No special guests?

MS. MEITH: I'm wearing my great grandmother's cameo.

SENATOR JOHNSON: All right. Secretary, call

the roll.

COMMITTEE SECRETARY WEBB: Support or opposition?

Did you ask that?

SENATOR JOHNSON: Support or opposition?

Call the roll.

COMMITTEE SECRETARY WEBB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEBB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEBB: Knight aye.

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEBB: Romero Aye.

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEBB: Johnson aye.

Four to zero.

MS. MEITH: Thank you.

(Applause.)

SENATOR JOHNSON: Congratulations.

Linda Moulton-Patterson, a member of the California Integrated Waste Management Board and a distinguished citizen of my home county.

MS. MOULTON-PATTERSON: Good afternoon, Chairman

Johnson and members of the Rules Committee. I'm Linda Moulton-Patterson. And it's my pleasure to be here this afternoon seeking your confirmation of my reappointment as a member of the California Integrated Waste Management Board.

I would also like to take a moment to introduce my husband, former Congressman Jerry Patterson, who's back here somewhere.

(Applause.)

MS. MOULTON-PATTERSON: I was appointed to this position in 1999 and was proud to be confirmed by the Senate. I'm honored to have been reappointed by Governor Davis.

As a former teacher and school board member for seven years, I focused a great deal of my time in the last several months on environmental education. This year we instituted the Office of Environmental Education at the Board. We've also been working closely with Senator Torlakson and his efforts to increase recycling and waste reduction in schools.

While on the City Council and as Mayor of Huntington Beach, I was very involved in helping set the strategic vision for the success of our city reaching a 63 percent diversion rate. My understanding of the local issues has provided invaluable insights in serving as

Chair of the Board since June 2000.

In the last year, I have led our board through a series of discussions on environmental justice concerns that affect our policies and the protection of the public health and environment for all of the citizens of California. I also look forward to leading our Board in the development and investigation of new technologies in the promotion of waste to energy.

I have recently set direction by requesting that all policies and procedures be brought forward for the current board to review. This includes all enforcement related policies and procedures. I believe my seven years on the Huntington Beach Union High School Board of trustees, four years on the Huntington Beach City Council as council member and Mayor and five years on the California Coastal Commission have prepared me well to serve on the Waste Board.

It has been my pleasure and honor to serve the people of California as Chair of the Waste Board.

Thank you very much for your time and consideration of my confirmation.

I will be happy to answer any questions.

SENATOR JOHNSON: Senator Chesbro did you just wander in.

SENATOR CHESBRO: I'm here for my belated

introduction of Ms. Moulton-Patterson and if you would indulge me, I'd like to do that.

SENATOR JOHNSON: I'll will absolutely.

SENATOR CHESBRO: Mr. Chair and members, I, you may recall, was the Senate's appointee and one of the founding members of the Integrated Waste Management Board for the eight years prior to my running for the seat in the State Senate.

And I, over the years, before that as a local Governor official had the opportunity to get to know Linda Moulton-Patterson as somebody who is very strongly committed to the legislative mandate that was provided in AB 939 and given to the Integrated Waste Management Board.

I was extremely pleased that the Governor chose to make an appointment of somebody of such high caliber, in particular, the fact that the majority of the responsibility for this law falls on cities and counties, and on local governments, to have somebody who is so clearly committed to reducing the State's waste stream, to protecting the environment, but also has an understanding of the obstacles and difficulties that local governments face in trying to make this law work. That's the balance that I tried to bring to the Board.

And when the Governor appointed her to the Board and she became chair, it was quite reassuring to me that

the Waste Board was going to continue to move forward and implement the Legislature's vision that it laid out in AB 939, so I'm very pleased to be here to belatedly introduce her, now that she's made here presentation and also to offer my support for her confirmation.

SENATOR JOHNSON: Thank you, sir.

MS. MOULTON-PATTERSON: Thank you, Senator Chesbro.

CHAIRPERSON BURTON: Senator Knight.

SENATOR KNIGHT: Have we got two reporters?

CHAIRPERSON BURTON: One is in training, pre-flight.

SENATOR KNIGHT: What?

CHAIRPERSON BURTON: Pre-flight.

SENATOR JOHNSON: So talk fast.

SENATOR KNIGHT: Let's see how fast we can talk.

CHAIRPERSON BURTON: That was it?

(Laughter.)

SENATOR KNIGHT: That was it. I didn't know what was going on. Nobody explained it to me.

SENATOR JOHNSON: Blame it on your predecessor as chair.

CHAIRPERSON BURTON: Senator Johnson.

SENATOR JOHNSON: No questions, sir.

CHAIRPERSON BURTON: Senator Romero.

SENATOR ROMERO: Thank you. And I appreciate that you came and spoke with me regarding especially my interest in landfills in particular.

Let me just ask you, because I was concerned about the State Auditor's report released in 2000 regarding recommendations for the Board and some concerns as to how the Board has had oversight regarding continuing problems with landfills.

You and I had a long discussion about that yesterday, particularly with respect to the Board's ability to fine or its choice not to fine. Can you delineate for me, first of all, of the recommendations made by the State Auditor, how you have begun to address these concerns and what you will intend to do as you go forward?

And, secondly, if you can give me some information on what the Board has done, what you have done in terms of arguing for fines for those entities that have not met the standards, been out of compliance and simply haven't, I believe, been upholding the standards that I think we should be upholding?

MS. MOULTON-PATTERSON: Thank you, Senator Romero. And we certainly take the audit record very seriously and we have a time line at the Board where we're discussing each of the recommendations and trying to come

up with some possibilities of seeking legislative fixes or legislative streamlining -- to seek legislation to streamline the process for imposing civil penalties, because we are very limited.

And in May we held a discussion and we directed staff to come back with statutory barriers that we have in imposing effective civil penalties. And that report is going to be before us in June.

We're also very concerned about taking landfill capacity into account and getting our database more up to date. As you know and as we discussed, you know, a lot of these are local decisions that come to us at the very end, and we are following them very closely and we would like to take into consideration that we have possible legislative action on having environmental justice as one of the bases for being able to object to a permit for a landfill expansion or siting.

SENATOR ROMERO: Can I just ask a follow-up question with respect to specifically fining. What is your policy or your philosophy in terms of cities out of compliance, yet they've been making progress? In a case like that -- maybe you can tell me how many times perhaps those issues have come before you and sort of what choices do you make, how are you guided by whether or not to fine or to say well, they're making progress, let me let them

go a little bit further.

MS. MOULTON-PATTERSON: In 1995, the statute required that the cities be at 25 percent diversion rate from the landfills. Not all of them met that. At that point, we were unable, statutorily, to impose a fine. What we did is we put, I believe it was, 393 on compliance orders, most of those have -- I think there's 30 left. Most of them have made great progress with the help from our local assistance team. We have a very good web page on helping cities.

And when we get the numbers in we'll have all the numbers in for 2000 in August of this year, then we will take another look and see -- we look at the numbers, the percentage, and then we look at the programs. And as I said to you yesterday, coming from local government, I know how much money and time and resources cities and the waste industry has put into the cities and counties that are doing a good job, so I would certainly not be opposed to imposing a fine for cities that are not following AB 939.

SENATOR ROMERO: Okay.

CHAIRPERSON BURTON: Senator Knight?

SENATOR KNIGHT: Yes, thank you, Mr. Chairman. Tires, lots of tires.

MS. MOULTON-PATTERSON: Thirty million a year,

yes.

SENATOR KNIGHT: Is that all? It's less than I thought. But in any event, I have had in my district two or three different companies come in and have cited processes for disposing of tires and reducing it to oil and metal and whatever else they can get out of it.

But we can't get those things approved for some reason. Is there anything you can do in that arena?

MS. MOULTON-PATTERSON: We're working very hard to find good uses. For example, crumb rubber made from tires. We're working very closely with CalTrans right now. We had a few glitches, but we're working with them to use them in their highways. We've also given a lot of grants for playground mats, tires are used in playground mats. And those are two good uses. And we're doing our best.

We've just turned in a five-year plan, tire plan, that has a very aggressive cleanup and enforcement element to it, and that will be coming over to you. It just was sent to CalEPA, but we're doing everything we can to help get those tires into recycled products.

SENATOR KNIGHT: That product is fine, but you have to have some mechanism by which you get to that product.

MS. MOULTON-PATTERSON: That's right.

SENATOR KNIGHT: That's my problem. I've had two or three companies come in and we're willing to, you know, give them land, et cetera.

MS. MOULTON-PATTERSON: We're working very closely with the crumb rubber tire people. There was some problems with -- they were having competition from British Columbia. And I think we've worked that out. And Director Moralez and I have been communicating and hopefully they'll be using California tires in rubberized asphalt.

CHAIRPERSON BURTON: Senator Karnette?

SENATOR KARNETTE: No questions.

CHAIRPERSON BURTON: Do you have family to introduce?

MS. MOULTON-PATTERSON: Yes, Former Congressman Jerry Patterson, my husband, is here again with me. And I'd like to reintroduce him.

CHAIRPERSON BURTON: Witnesses in support, briefly?

Witnesses in opposition, even more briefly?

(Laughter.)

CHAIRPERSON BURTON: Move approval.

Call the roll.

COMMITTEE SECRETARY WEBB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEBB: Karnette aye.
Senator Knight?
SENATOR KNIGHT: Aye.
COMMITTEE SECRETARY WEBB: Knight aye.
Senator Romero?
SENATOR ROMERO: Aye.
COMMITTEE SECRETARY WEBB: Romero aye.
Senator Johnson?
SENATOR JOHNSON: Aye.
COMMITTEE SECRETARY WEBB: Johnson aye.
Senator Burton?
CHAIRPERSON BURTON: Aye.
COMMITTEE SECRETARY WEBB: Burton aye.
CHAIRPERSON BURTON: Congratulations.
(Applause.)
CHAIRPERSON BURTON: How many people are here for the Fire Marshal?
Do you have any concept of what kind of a hazard you're creating by overpopulating the room?
(Laughter.)
CHAIRPERSON BURTON: There's a big brush fire out by Lincoln. Michael Paparian, Member, California Integrated Waste Management Board.
Senator Chesbro.
SENATOR CHESBRO: Mr. Chairman and members, I'm

also very privileged to, this afternoon, introduce Michael Paparian. Now, just for context, some of you were here when AB 939 passed, but the Integrated Waste Management Board is made up of four at-large public representatives and they're representative of the solid waste management industry, they're representative of the environmental community.

Michael was appointed by the Governor to represent the environmental community, and that's a very, very important role on this board relative to both the waste reduction side of the equation and advocating very strongly for that, but also that permitting regulatory function that Senator Romero asked about. And I think that we, in California, are quite privileged to have the Governor having made an appointment of somebody who clearly has the credentials, the history and the commitment to do that, fulfill that responsibility representing the environmental community.

Many of you know him. He represented the Sierra Club in the halls of the Legislature for many years. And so I don't really need to go into the details of his resume, except to tell you that he's an effective advocate representative of the environmental concerns, and I'm pleased to be able to introduce him and support him and encourage your confirmation of him.

CHAIRPERSON BURTON: Thank you, Senator. We have your thing in the record, so if you briefly want to comment, then we can go for some questions.

MR. PAPARIAN: Thank you, Mr. Chairman, and members. I am Mike Paparian. And I come before you as an appointee to the Integrated Waste Management Board. I was appointed to the environmental seat on the Waste Board just over a year ago. I filled out the end of a term. I was confirmed by you last year and I was reappointed to a full four-year term in January.

As Senator Chesbro mentioned, I am in the environmental seat. The environmental seat is intended for someone who comes from a nonprofit environmental organization dedicated to recycling air quality and water quality. As a representative of the Sierra Club for 22 years, I think I meet the qualifications of the law.

In addition, I do have degrees in biology, psychology and environmental planning, all of which have come in handy in my term on the Board.

I believe that I've been successful in not only presenting the environmental perspective on the Board, but working closely with affected industries and affected local governments in coming up with appropriate solutions to the problems we deal with on the Board.

The Waste Board's jurisdiction, as you know,

includes things like landfill safety, local government, recycling programs, waste tires, waste oil, market development, loans to recycling businesses and so forth.

And in recent months, as Linda Moulton-Patterson mentioned, environmental justice has emerged as a concern that we will be looking at and addressing. Among my personal priorities have been three things.

One has been electronics waste, what to do with old computers and related equipment. And second has been State agency recycling and recycled product procurement efforts.

And third has been public access to the actions and activities of the Board. I think I've been successful in all three areas in moving that forward.

So Mr. Chairman and members, I'm honored by this opportunity to serve the State of California, and I ask for your support of my confirmation.

Thank you.

CHAIRPERSON BURTON: Senator Johnson.

SENATOR JOHNSON: No questions.

CHAIRPERSON BURTON: Senator Romero?

SENATOR ROMERO: If I can just ask you again, too, regarding too what your philosophy is in terms of having cities or entities that are out of compliance. What is your philosophy in terms of fining or saying

you're making good progress, go ahead and go forward. Can you just delineate your philosophy on this.

MR. PAPARIAN: I think we've got to do what we can with the tools we've got to assure compliance. And the law was very clear that we were to reach 25 percent by the year 1995 and 50 percent by the year 2000. Although, a couple of years ago a law was passed allowing for a delay of several years in the year 2000 requirement for localities making a good faith effort.

The law basically says that if somebody is not meeting their recycling requirements, we work on a schedule to get them into compliance and work on actions to get them into compliance. We're not, under the law, authorized to fine at that point. We need to really work with them before we can get to a point where there would be fines.

Now, there were four instances, before I came to the Board, where fines were levied on localities that basically were not doing much of anything. And thanks to those fines and other efforts, they are now coming into compliance.

But in terms of the local government activities, you know, at this point, I want them to come into compliance. I think we need to do everything we can to move them into compliance. And I think that in the case

of local governments for this program, the fines are a last step. You know, hopefully we won't have to use them. But if we have to use them because someone is really, you know, blatantly out of compliance, you know, I think we have that tool and we should use that tool.

SENATOR ROMERO: Okay, Thank you.

CHAIRPERSON BURTON: Senator Knight?

SENATOR KNIGHT: No questions.

CHAIRPERSON BURTON: Senator Karnette?

SENATOR KARNETTE: No questions.

CHAIRPERSON BURTON: Do you have any family to introduce?

MR. PAPARIAN: Not here, thank you.

CHAIRPERSON BURTON: Witnesses in support briefly?

Witnesses in opposition briefly?

Move the nomination.

COMMITTEE SECRETARY WEBB: Senator Karnette?

SENATOR KARNETTE: Yes.

COMMITTEE SECRETARY WEBB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEBB: Knight aye.

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEBB: Romero aye.

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEBB: Johnson aye.

Senator Burton?

CHAIRPERSON BURTON: Aye.

COMMITTEE SECRETARY WEBB: Burton aye.

CHAIRPERSON BURTON: Congratulations.

(Applause.)

CHAIRPERSON BURTON: John J. Tennant State Fire Marshal.

MR. TENNANT: Good afternoon. Mr. Chairman and Members of the Rules Committee, my name is John Tennant. I am currently serving as the California State Fire Marshal. I appreciate the opportunity to be here today with you to tell you a little about myself and to ask that you recommend my confirmation to the full Senate.

The prepared statement submitted to the Committee last week outlines some of the goals that I will continue to pursue if I am confirmed to this post.

So I thought that I would use my time today to tell you a little about the qualities that I believe that I bring to this position. As you may be aware, I come to State service after 28 years from the Pasadena Fire Department, 23 of them as the Fire Officer.

For 16 of those years, I was honored to have one election and reelection as the President of the Pasadena Firefighters Association.

Wile I am proud of the recognition of my peers, I am equally proud of the working relationships that I was able to forge within Pasadena City Government and fire management. Working cooperatively with all the stakeholders, I helped win approval of Pasadena's retroactive high-rise sprinkler ordinance.

I also spent time as an intern, administrative aid to State Senator Cecile Green. I helped Senator Green develop landmark legislation giving local jurisdictions the option to institute more stringent building and safety requirements for specific local conditions.

As a former Fire Captain, I believe I bring a real world sensitivity and sensibility to the post of State Fire Marshal. I have spent over 28 years in fire prevention and suppression, giving me a firsthand look at the impact that State regulations and standards can have on businesses and individuals. I have also seen the role that training and safety standards can have on the citizens and the lives of firefighters.

The approach that I have taken over the years reflects the philosophy that I hope to bring to the Office of State Fire Marshal. It is a philosophy built on

results through relationships, consensus over confrontation. I am proud to say that some of the supporters that I have are the same people who sat across the table from me in conflict resolution and negotiation.

I belief that even my adversaries would agree that their dealings with me have been straightforward, professional and above board.

In closing, I want to thank the Chairman and the Committee for the courtesy and interest that they have shown during the confirmation process. I would appreciate your support for my appointment and stand ready to answer questions that you may have about me, my priorities or the office of State Fire Marshal.

Thank you.

MR. TERRY: Mr. Chairman, Dan Terry, President of the California Professional Firefighters. Briefly, I've had the opportunity to work with John for the past 16 years at the State level. I find him to be a thoughtful, intelligent person. I know that he is highly qualified to take on this role and protect the public safety and I'd urge your aye vote.

I would also like to introduce -- it's with great pleasure, that I get the opportunity to introduce our General President of the International Association of Firefighters who's here with us today, because we're

having a ledge conference. I think many of you may see some of our folks here, but or general president Harold Schaitbercer.

MR. SCHAITBERCER: Thank you, Dan and thank you Mr. Chairman. I am here also representing the 245,000 men and women that make up the membership of our great international, the International Association of Firefighters, across the United States and Canada, as well as the more than 30,000 members that we represent here in California, to appear before this distinguished committee in support of John Tennant my colleague, my brother, my good friend and urge you to support his appointment to the position of California State Fire Marshal.

If the Chair would indulge me just for a second, I also want to acknowledge that when I first had an opportunity to come to our international from the field in 1975 as its legislative and political director, I had the opportunity to work with the distinguished Chairman of this Committee and I want to acknowledge on behalf of international the important work that he did from 1975 through 1982 on a number of issues including taking leadership in prevailing wage programs, your service on the Government Ops Committee and the important work you did to improve the retirement, insurance and benefits for federal employees, including our federal members, and most

importantly, the Public Safety Officers Benefit Program, which now provides $150,000 to the dependents of the survivors of firefighters and law enforcement officers who are killed in the line of duty, and which our brother really provided distinguished leadership. We thank you for all of that past work.

CHAIRPERSON BURTON: Thank you.

MR. SCHAITBERCER: We're here simply to say that John Tennant deserves this position, is an excellent choice for this position, because he is a man who has held for 28 years with distinction and honor, levels at the local, State and national levels in fire service leadership roles.

I'm confident that you are and have become well aware of his solid background in labor management relations, as John just mentioned, his budget development and management and strategic planning experience. So if I may just -- I intend to, if I may, just devote my few moments to tell you about the John Tennant I've known for a quarter of a century as a friend and as a leader.

He's a man whose drive, passion and skill led to his rapid rise from firefighter to a Fire Captain in a mere five years. That's quite an accomplishment in your industry. He's someone who's devoted his entire adult life to fire suppression and fire prevention, and he's

always viewed fire service as much more than a job. For John the fire service is an avocation. It's a way of life.

But somehow John also found time and energy to serve for many years as the president of our local union in Pasadena, to lecture graduate students at USC on public personnel administration, to hold offices, vice-president, of the California Professional Firefighters, to sit on the CalOSHA Advisory Committee, and to chair the City of Pasadena's Retirement Board.

Mr. Chairman, John Tennant's accomplishments are many. His organizational leadership skills are second to none. His work ethic is exemplary and his dedication and commitment to the fire service are unquestioned. He's a man of skill, strength, character and integrity, who I dare to say will prove to be one of the most credible and effective State Fire Marshals in California history.

The IFF applauds Governor Davis for his wise choice of John. And I'm hopeful your committee will act swift and confirm his nomination.

I thank you for the opportunity to address the Committee today and to voice our support for a truly dedicated and effective public official.

Thank, Mr. Chairman.

Thank you.

SENATOR KNIGHT: I'm convinced we ought to move it.

CHAIRPERSON BURTON: Did you have any family with you, John?

MR. TENNANT: No, sir, I don't.

CHAIRPERSON BURTON: How about this, is there any opposition?

(Laughter.)

CHAIRPERSON BURTON: Ferguson, you're coming down to oppose?

Why don't those of you who are in support out there just raise your hand, so we can see?

Any questions, members of the Committee?

Moved by Senator Knight.

Call the roll.

COMMITTEE SECRETARY WEBB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEBB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEBB: Knight aye.

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEBB: Romero aye.

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEBB: Johnson aye.

Senator Burton?

CHAIRPERSON BURTON: Aye.

COMMITTEE SECRETARY WEBB: Burton aye.

CHAIRPERSON BURTON: Congratulations.

(Applause.)

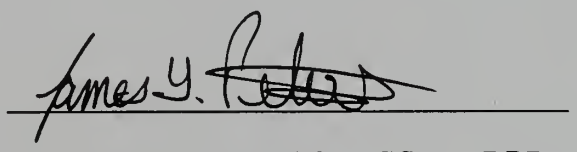
CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee meeting was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of June, 2001.



JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
License No. 10063

429-R
Additional copies of this publication may be purchased for $3.00 per copy
(includes shipping and handling) plus current California sales tax.

Senate Publications
1020 N Street, Room B-53
Sacramento, CA 95814
(916) 327-2155

Make checks payable to SENATE RULES COMMITTEE.
Please include Stock Number 429-R when ordering.

L500
R9
2001
no. 21

CA
Legislature

HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

DOCUMENTS DEPT.

JUL 18 2001

SAN FRANCISCO
PUBLIC LIBRARY

STATE CAPITOL
ROOM 3191
SACRAMENTO, CALIFORNIA

MONDAY, JUNE 4, 2001
1:45 P.M.

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 3191

SACRAMENTO, CALIFORNIA

MONDAY, JUNE 4, 2001

1:45 P.M.

REPORTED BY:

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

ORIGINAL

APPEARANCES

MEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to Senator Johnson

TIM SHELLEY, Consultant to Senator Karnette

CHRIS BURNS, Consultant to Senator Knight

RYAN SHERMAN, Consultant to Senator Romero

ALSO PRESENT

DERRAL ADAMS, Warden
California Substance Abuse and Treatment
Facility State Prison at Corcoran

DANIEL ALEJANDREZ,
Santa Cruz Barrios Unidos

JOHN ALVES, Chapter President
CCSO

MILTON ARMISTEAD, Esq.

APPEARANCES CONTINUED

ALSO PRESENT

MARC BAUTISTA,
Civil Service Division CSEA

GEORGE BROWN

ROY A. CASTRO, Warden
California Correctional Center, Susanville

BRIAN ELY,
Sutter Health

JIM ERWIN, President
San Bernardino County Safety Employees' Association

CLANCY FARIA,
PORAC

CLAUDE E. FINN, Warden
Deuel Vocational Institution, Tracy

MARI GOODMAN,
CSEA-SEIU Local 1000

BRETT GRANLUND, Member
Board of Prison Terms

DEBRA HEUSEL,
CCPOA

ROBERT HOFFMAN

ROY MABRY, President
Association of Black Correctional Workers

MARGIE PALERMO
Citizen's Advisory Committee and Family Council

BILL QUIROZ
Teichert Construction

MARY LOU SOLOMON
Santa Cruz Barrios Unidos

RICHARD TATUM
California CORR Supervisors Organization

APPEARANCES CONTINUED

ALSO PRESENT

JOYCE THOMAS-VILLARONGA
CSEA Civil Service Division

TOM VANDER WAL, Chairman
CAC

JAMES E. VOGTS
L.A. County Professional Peace Officer's Association

KEITH WATTLEY,
Prison Law Office

ORLANDO A. YBARRA
Lieutenant

INDEX

	PAGE
Proceedings	1
Governor's Appointees:	
DERRAL ADAMS, Warden California Substance Abuse and Treatment Facility State Prison at Corcoran	1
Opening Statement by Mr. Adams	1
Questions by Senator Romero	
What have been the precipitating factors for lock downs and what are you doing to decrease them?	1
Over the years has there been a general increase in lock downs and what are you doing to decrease them?	2
Witnesses in support:	
ROY MABRY, President Association of Black Correctional Workers	3
MARI GOODMAN, CSEA-SEIU Local 1000	4
Witnesses in opposition:	
ORLANDO YBARRA, Lieutenant	4
Questions by Senator Knight	
Your charges are going through the normal process?	10
You can always file charges from a legal standpoint?	11
Questions by Senator Karnette	
Is the union handling your case?	11
Does everyone have to belong to the union?	12

INDEX CONTINUED

	Page
Motion to Confirm	13
Committee Action	14
ROY A. CASTRO, Warden California Correctional Center, Susanville	
Opening statement by Mr. Castro	14
Questions by Senator Knight	
Do you have any relation in Cuba?	16
Witnesses in Support:	
MARC BAUTISTA, Civil Service Division CSEA	16
Questions by Senator Karnette	
What is your contingency plan for fire?	18
Witnesses in Support:	
RICHARD TATUM California CORR Supervisors Organization	18
Motion to Confirm	19
Committee Action	19
CLAUDE FINN, Warden Deuel Vocational Institution, Tracy	
Opening statement by Mr. Finn	19
Questions by Senator Romero	
Why are there more lawsuits regarding poor medical treatment and water quality?	22
Witnesses in Support:	
JOYCE THOMAS-VILLARONGA CSEA Civil Service Division	24

INDEX CONTINUED

	Page
MARGIE PALERMO Citizen's Advisory Committee and Family Council	25
ROBERT HOFFMAN	26
BRIAN ELY Sutter Health	26
DEBRA HEUSEL CCPOA	26
JOHN ALVES, Chapter President CCSO	27
TOM VANDER WAL, Chairman CAC	27
DANIEL ALEJANDREZ Santa Cruz Barrios Unidos	28
MARY LOU SOLOMON Santa Cruz Barrios Unidos	28
BILL QUIROZ Teichert Construction	29
MILTON ARMISTEAD, Esq.	30
Motion to Confirm	31
Committee Action	32
BRETT GRANLUND, Member Board of Prison Terms	
Opening Statement by Mr. Granlund	33
Questions by Senator Karnette	
What do you think about the decision review panel?	33
How will you resolve the backlog of cases?	35

INDEX CONTINUED

	Page
How do you see resolving the backlog of cases?	35
Who makes the clerical more efficient?	37
Questions by Senator Romero	
Have you been trained on battered woman's issues?	38
Motion to Confirm	39
Witnesses in Support:	
JAMES E. VOGTS, L.A. County Professional Peace Officer's Association	40
CLANCY FARIA, PORAC	40
JIM ERWIN, President San Bernardino County Safety Employees' Association	40
KEITH WATTLEY Prison Law Office	40
Committee Action	42
Termination of Proceedings	43
Reporter's Certificate	44

PROCEEDINGS

SENATOR JOHNSON: Next, Governor's appointments. The first is Derral Adams, Warden, Corcoran facility. Please come forward sir.

MR. ADAMS: That's actually the substance abuse treatment facility at Corcoran.

My name is Derral Adams. I've got 22 years with the Department of Corrections. In that 22 years, I've held 12 different posts. I've worked at seven different institutions. I worked with every population that the Department of Corrections currently houses. I have worked on both the operational and business sides of things. I currently am the appointee at the Substance Abuse Treatment Facility at Corcoran. We house 6,400 inmates, 1,500 of which are -- pardon me, 1,478 are involved in substance abuse programs. The other, that would be, 5,000 or main line inmates in levels 2, 4, and 3. And I'm here to answer any questions you have.

SENATOR JOHNSON: All right. Senator Knight?

SENATOR KNIGHT: No questions.

SENATOR JOHNSON: Senator Karnette?

SENATOR KARNETTE: No questions.

SENATOR JOHNSON: Senator Romero?

SENATOR ROMERO: Just, if you can, maybe if you can just talk a little bit about lock downs in the

facility, under what circumstances and what have been precipitating factors that have led to it and what are you doing to decrease those numbers?

MR. ADAMS: Lock downs are generally the result of violence or information received that might precipitate violence. And we lock down to either curb the violence or to take a look at the issues that may be leading to that, try and sort out who may or may not be involved, and then as rapidly as possible take the uninvolved inmate population and bring them back up off the lock downs, while you work with the involved population to see if you can help them sort out their differences.

SENATOR ROMERO: And just, if you could follow up, have you seen increases or decreases or how would you -- I mean, what are some of your proposals to -- over the years, have there been a general increase in lock downs and what are your proposals to decrease that?

MR. ADAMS: Well, over the years there's been an increase in violence, so that results in an increase in lock downs. And the Department currently has a pilot program for violence control. My institution, unfortunately, is not a part of that pilot, but it's based on a system of providing incentives and disincentives that are behavioral based.

We provide as much programming as we can to those

inmates that involve themselves in programming and stay out of that type of behavior. So we are active in that sense, although we're not part of that pilot.

SENATOR ROMERO: Thank you.

SENATOR JOHNSON: Any further questions?

SENATOR KNIGHT: Move it.

SENATOR JOHNSON: Witnesses in support of the nominee come forward and submissions will be judged on the basis of originality and briefness.

(Laughter.)

MR. MABRY: Thank you, Chairman. My name is Roy Mabry. I'm the State President for the Association of Black Correctional Workers.

Senator, I like your new haircut.

Also, I'm here to show some complete support for confirmation for the Warden for State Prison. Also, to continue to not delay any time, I'd like to state the same support for the next three people that are coming up on the agenda.

That's A through D.

(Laughter.)

SENATOR JOHNSON: I think we have a winner.

(Laughter.)

MR. MABRY: That's A through D on the agenda.

Warden, good luck.

SENATOR JOHNSON: Next witness, please.

MS. GOODMAN: Thank you. My name is Mari Goodman. I work over at the C -- I don't even know where I work, CCI in Tehachapi. I'm a house record tech, and I also serve on the Committee at CSEA Union for the correctional institution. And we kind of address some of those very unique issues only in correctional and we are here in support of Mr. Adams' confirmation.

We understand that he has addressed a lot of the issues rapidly. He is right on top of all those grievances, addressing them and those that have been not in favor of the grievance. He has agreed to disagree without retaliation and has assisted those people, so we're very much in favor of his confirmation, and it's the only one I'm going to speak on today.

MR. ADAMS: Thank you.

SENATOR JOHNSON: Thank you very much. That's in your favor as well.

Witnesses in opposition?

Witnesses in opposition?

All right. There's been a motion by Senator Knight. Secretary call the roll.

COMMITTEE SECRETARY WEBB: I think there's opposition.

MR. YBARRA: Good afternoon, senators. My name

is Orlando Ybarra. I'm a Lieutenant for the California Department of Corrections at the California Substance Abuse Treatment Facility at State Prison. I've been at SATF since its activation and have witnessed, firsthand, the failed administration of Mr. J.W. Fairman.

Now, senators, I am witnessing the unfair illegal hiring practice, the disparate treatment and the racial discrimination of Mr. Derral Adams.

I am here today, senators, to oppose confirmation of Mr. Derral Adams. On February 13th, 2001, each of the distinguished senators here today received a certified mail packet from me. This packet contains signed dated documentation, which was generated from the institution.

I compiled this information to prove the disparate treatment, the illegal hiring and the discrimination that is occurring at SATF. Not only does Mr. Adams know about the aforementioned, he condones it as well as participates in it himself.

I attempted to handle the situation at the lowest possible level. On January 16th, 2001 I spoke with Mr. Adams. Present at the meeting was Sergeant R. Dubsky, my California Correctional Supervisors Organization Representative and Mr. Sanchez, Acting Chief Deputy Warden and EEO Coordinator at SATF.

I brought the issues to Mr. Adams' attention, but

when his response was, "Lieutenant, I will hire who I want, promote who I want, and place them where I want, after all, I am the Warden am I not, Lieutenant?"

This, above-the-law attitude, compelled me to file a discrimination complaint against Mr. Adams. On January 18th, 2001 in front of my CCO representative, Mr. Adams attempted to fix the problem, by offering me a special assignments job at central region headquarters, working for Mr. George Galaza, Regional Administrator of the central region at that time.

I declined his offer, senators, because in my eyes he was attempting to buy my silence. Since I filed my discrimination complaint, Mr. Adams has attempted damage control, attempting to explain to staff on why he has done what he has done, by not having an open-door policy, limited CC1 interviews to selected few, hiring and promote from outside the institution and not giving those that have been at SATF, from the beginning, the opportunity to even interview for a position.

It is no secret, senators, that Mr. Adams does have concerns about being confirmed. The question to ask oneself is have the recent changes occurred because Mr. Adams has finally become aware of the disparate treatment or did he make these changes to get confirmed.

Mr. Adams is claiming that he is hiring more

Hispanic custody staff. I have not asked for that. I am only requesting that the most qualified person be hired no matter what his or her nationality might be. On January 31st, 2001 the Department of Corrections Equal Employment Opportunity Office acknowledged receipt of my complaint.

On March 8th, 2001 I received confirmation that my complaint was accepted and was being referred to the discrimination investigations unit. On May 29th, 2001, the Office of Internal Affairs/Discrimination Investigations Unit interviewed me and are now conducting an active investigation into my complaints.

On March 21st, 2001, I was called to a meeting with Mr. Hurdle who is an ombudsman. Present at this meeting was Mr. Adams, Sergeant Dubsky, my CCO representative and Ms. Susan Morrero, State President of CCWA.

It is amazing how the ombudsman was able to determine that I had not been discriminated against on just by the Warden's statements.

No documentation was allowed to be presented, no witnesses were called or questioned, yet this did not prevent Mr. Hurdle from writing to Ms. Nettie Sabelhaus on March 23rd, 2001 and informing her that I had not been discriminated against, and that the appearance of nepotism, favoritism appears to be the most difficult

issue to resolve.

On March 30th, 2001 Mr. Adams responded to Mr. Ken Hurdle about my concerns via memorandum. Expressed issues of concern that were answered were, the Correctional Counselor I hires, the Correctional Counselor II hires, first watch lieutenant's rotation, the Sergeants hires, the staff transfers, administrative hires, vacant lieutenant's positions, advertisement of positions and individual concerns.

Mr. Adams responded to this issue with embellished answers, all of which can be proven to be false. I have submitted the necessary documentation to the OIADIU agent in charge of the investigation. I only hope that Mr. Adams is held to the same standard that all peace officers are during an investigation.

In fact, I believe that Mr. Adams should be held to a higher standard. My purpose here today, senators, is to hold the Department of Corrections, especially Mr. Adams, accountable for his actions as well as the actions of his close circle of friends that he calls a team, as per his January memo.

This memo was circulated to all staff. It was circulated two days after I had my first meeting with Mr. Adams. In this memo, Mr. Adams justified why he is hiring others from outside SATF and those that did not like it

can leave.

But he neglects to state why he is circumventing the policy and procedures set forth --

SENATOR JOHNSON: Sir, excuse me for interrupting, are you about completed with your statement.

MR. YBARRA: Yes, sir, I am.

SENATOR JOHNSON: If you could wind it up, please.

MR. YBARRA: Set forth by departmental operational manual. It is human nature for pride to fill us with self worth especially when a Warden calls you and promises you a certain position at his institution, and then tells you that you will prosper at SATF. A pridefull person doesn't have to worry that someone else will tell on them. They tell on themselves.

It is no secret that Mr. Adams is actively recruiting from Wasco State Prison and Valley State Prison for Women. senators, I, for one, am tired of being denied a position because of the color of my skin or because I did not have the same political or social affiliations of Mr. Adams' team.

Many supervisors and officers wanted to be here today, but they feared the retaliation that occurs when one speaks up. I, for one, senators, have 14 years in and have 19 years left to do behind the prison walls. I do

not plan to promote anytime soon, for I love my job as the Institutional Gang Investigator at SATF.

All that I'm asking of you, senators, is that you help me hold the Department of Corrections and Mr. Adams. Let us not forget our history, I see no difference between the last failed administration and this one. That is why I'm asking you, senators, to hold your vote awaiting the outcome of the pending investigation from OIA and DIU.

Thank you.

SENATOR JOHNSON: Senator Knight, you have a question.

SENATOR KNIGHT: Thank you, Mr. Chairman. You have indicated, to the witness, and I didn't get your name.

MR. YBARRA: Lieutenant Ybarra. Orlando Ybarra.

SENATOR KNIGHT: Ybarra. You have indicated a number of charges and also indicated that most of those are going through the process, is that right?

MR. YBARRA: Yes, sir. I spoke to the OIA DIU agent, sir.

SENATOR KNIGHT: So they are going through the normal press and a legal process established for those kinds of situations?

MR. YBARRA: Yes, sir.

SENATOR KNIGHT: And if they don't come out

correctly, and you still have an objection or legal information, then you can always file charges from a legal standpoint, right?

MR. YBARRA: I believe so, sir.

SENATOR KNIGHT: So everything is moving along on schedule?

MR. YBARRA: Yes, sir.

SENATOR KNIGHT: Is that right?

MR. YBARRA: Yes.

SENATOR KNIGHT: Thank you.

SENATOR JOHNSON: Any other questions?

Senator Karnette.

SENATOR KARNETTE: I would like to note your union is handling this, so you did have representation, but what has the Union said?

MR. YBARRA: The Union is not handling it, ma'am. I filed a personal EEO complaint.

SENATOR KARNETTE: But you went through your union -- you didn't go through the Union?

MR. YBARRA: No, ma'am. I felt they were not -- they wouldn't represent me adequately, ma'am.

MR. ADAMS: If I can, the Union represents a Lieutenant, has authored a letter in my support.

SENATOR KARNETTE: Well, do you have agency fee?

MR. YBARRA: Pardon me, ma'am?

SENATOR KARNETTE: Do you have agency fee? Does everybody have to belong to the union or pay dues?

MR. YBARRA: No, ma'am, not supervisors.

SENATOR KARNETTE: Supervisors. Okay who defends you -- then you don't pay dues?

MR. YBARRA: CCSO would defend me, ma'am.

SENATOR KARNETTE: Okay. But you do not pay dues to a union?

MR. YBARRA: Yes, ma'am, I do.

SENATOR KARNETTE: Well, then I think they have to defend you, don't they?

MR. YBARRA: Yes, ma'am, they would if I was put in a situation where legal action is pending.

SENATOR KARNETTE: So actually the Union hasn't -- you haven't asked them to do anything and they haven't done anything, because you haven't asked them, but you are a member.

MR. YBARRA: Well, I tried to get ahold of the Union President, but I haven't been able to get his call back from the State President, but --

SENATOR KARNETTE: Well, don't you have a representative --

MR. YBARRA: Yes, ma'am. And I did have him there present, just as witness and he did sign the meeting -- everything that was said at the meeting to be

true on one of the pages there in the packet.

SENATOR KARNETTE: Maybe, the Warden can elucidate that. What happens with when the union in this case.

MR. ADAMS: The Union would represent the employee if the employee was engaged in a conflict with the Department. If retaliation had become an issue, the Union could support and represent the employee.

In this particular case, because the Union chose not to support this lieutenant in his quest, he's taken that outside of the union, has filed within the Department separately.

MR. YBARRA: I did not go to the Union. I went outside the Department, first?

SENATOR KARNETTE: You have the right, I understand that.

SENATOR JOHNSON: All right, there is no further questions.

Mr. Adams, have you any family members here you'd care to introduce?

MR. ADAMS: Yes, I'd like to introduce my wife Laura Hernandez.

SENATOR JOHNSON: Is there a motion?

SENATOR KNIGHT: Motion still stands.

SENATOR JOHNSON: All right. Senator Knight's

motion still stands.

Secretary, call the role.

COMMITTEE SECRETARY WEBB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEBB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEBB: Knight aye.

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEBB: Romero aye.

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEBB: Johnson aye.

SENATOR JOHNSON: Congratulations, sir.

MR. ADAMS: Thank you.

(Applause.)

SENATOR JOHNSON: Let's have next Roy A. Castro, Warden, California Correctional Center Susanville.

Welcome, sir.

MR. CASTRO: Good afternoon, senators. My name is Roy Castro. I began my career in 1971 as a Correctional Officer at Deuel Vocational Institution in Tracy. I promoted through the ranks, while transferring to six different institutions and assisting in the

activation of three new facilities.

I worked all custody levels at mens institutions, and medium and maximum securities at the Central California Womens' Facility in Chowchilla.

In 1998 --

SENATOR JOHNSON: Go right ahead, sir.

MR. CASTRO: In 1998, I was appointed Warden of High Desert State Prison. That's a level 3 and 4 institution. During that period of time, High Desert State Prison had been experiencing a lack of morale, and a lack of unity among supervisors.

Under my leadership, morale increased, meaningful programs were developed for the inmates and staff, security measures were improved, and I believe that High Desert State Prison became a highly proficient institution.

In -- excuse me, I just drew a blank.

SENATOR JOHNSON: Derailed your train of thought, did we?

(Laughter.)

SENATOR KARNETTE: It happens to us, too.

SENATOR JOHNSON: All right. Well, maybe we can go to questions. Any questions from members of the Committee?

Senator Knight.

SENATOR KNIGHT: No, just a basic question. I'm sure you get this question all the time. Do you have any relation in Cuba?

(Laughter.)

MR. CASTRO: Any relations where, Senator?

SENATOR KNIGHT: In Cuba.

MR. CASTRO: No, I don't.

SENATOR ROMERO: But I might.

(Laughter.)

SENATOR JOHNSON: All right, maybe that's a good time to ask Senator Romero if she has any questions.

(Laughter.)

SENATOR ROMERO: I don't have any questions.

CHAIRPERSON KEESE: Senator Karnette.

SENATOR KARNETTE: No questions.

SENATOR JOHNSON: Witnesses in support of the nominee.

Welcome, sir.

MR. BAUTISTA: Good afternoon. My name is Marc Bautista. I'm one of the four statewide officers for the Civil Service Division, that represents a vast majority of the workers at the institution who are not correctional officers.

I've had the opportunity to work with Roy Castro since the California Womens' Facility and I've also talked

to some of our members and activists there at the institution and we find Roy Castro someone who you can approach. You can agree to disagree and have always found him to be very supportive and an open person to hear the concerns.

I know I had an opportunity to visit with him last week, and he shared with me that it is very important that, you know, you hear things, whether you like the news or not, but it's important to understand what's going on in the institution that you hear what's going on, so he always promoted an open-door policy and we're here in support of his confirmation.

SENATOR JOHNSON: For the staff, I presume.

MR. BAUTISTA: For the staff.

SENATOR JOHNSON: That open door policy would be somewhat of a --

(Laughter.)

SENATOR JOHNSON: Warden, do you have any family members you'd care to introduce?

MR. CASTRO: Yes, I have my wife of 26 years here. Debbie.

SENATOR JOHNSON: And welcome.

MR. CASTRO: Numerous CDC family is here.

SENATOR JOHNSON: All right.

Any opposition to this?

SENATOR KARNETTE: I had one question I wanted to ask, sir, if I might. I was wondering what your contingency plan for fire is. I know there was a fire? There. And what happens in a prison when there's a fire.

SENATOR KNIGHT: It's tough.

MR. CASTRO: Right now, I have several hundred inmate fire crew members that are at my disposal at the prison itself. Our grounds are pretty much kept baron where we don't have shrubbery. And there's very little possibility of ever having to evacuate our prison due to fire. So I can probably put a ring of inmates around my prison if I had to fight fire.

SENATOR JOHNSON: Any opposition?

Going once.

SENATOR JOHNSON: Sir.

MR. TATUM: I'm in support.

SENATOR JOHNSON: Please come forward.

MR. TATUM: Good afternoon, I'm Richard Tatum. I'm the State President of the California Correctional Supervisors Organization, which represents about 2,000 correctional supervisors. One of the things I'd like to say to Mr. Castro, I've known him since 1973 when he worked for me as a correctional officer at Deuel Vocational Institution.

Roy is the type of Warden that we want. Talk

about open-door policies, good sound decisions, this is him. So our organization wholeheartedly supports him.

SENATOR JOHNSON: Thank you very much, sir. Is there a motion?

SENATOR KNIGHT: Move.

COMMITTEE SECRETARY WEBB: Senator Knight moved.

SENATOR JOHNSON: Senator Knight has moved Secretary call the roll.

COMMITTEE SECRETARY WEBB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEBB: Karnette aye. Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEBB: Knight aye. Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEBB: Romero aye. Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEBB: Johnson aye.

SENATOR JOHNSON: Congratulations, Warden.

(Applause.)

SENATOR JOHNSON: Next Claude Finn, Warden of the Deuel Vocational Institution in Tracy. Welcome, sir.

MR. FINN: Thank you, Senator. Good afternoon.

Thank very much for this opportunity. Again, my name is Claude Finn, and I'm very honored to say that I've been with the Deuel Vocational Institution for four and a half years. And I'm very, very honored to know that I've worked with the most professional and most personable folks I've ever worked with in my entire 28 years of providing service both to the State level and local level.

I bring a wide variety of various high-level administrative experiences to the State Department of Corrections, although, I wasn't born and raised in the Department and did not come up through the ranks. The Department has gotten so large that there's a lot of room for both inside and outside, and I tend to bring both. I've got 15 years with the State Department of Corrections, I'm proud to say, coming in at a high level at a CEA II level over at the Office of Community Resources.

The truth, and to be frank, is the very first prison I've worked in has been Deuel Vocational Institution four and a half years ago. It's been quite the experience. What I bring with me to the job of Warden is not just that experience, but my entire life experience and an attitude and an enthusiasm of being inclusionary as opposed to exclusionary.

I really go out of my way to get input from a

wide variety of different resources and from different people. Issues facing corrections have gotten so complex that I think I'm wisest to do that. I've gotten a lot of accolades these past four and a half years for my leadership style. I know how to hold people accountable. At the same time, I've got compassion and firmly believe in training and retraining.

I feel very equipped to do this. I've been acting Warden since about October of 1999. I've been fire tested. I've been successful, and I'm very much ready to continue being in the position of Warden at DVI.

SENATOR JOHNSON: Senator Knight, do you have any questions?

SENATOR KNIGHT: No questions.

CHAIRPERSON KEESE: Senator Karnette?

SENATOR KARNETTE: No questions, but Dion Aroner and Tim Leslie and Patrick Johnston all like you very well.

MR. FINN: I feel blessed. I like them, too.

(Laughter.)

SENATOR JOHNSON: Can't hurt.

Senator Romero.

SENATOR ROMERO: Just a question here. Of course every institution has lawsuits that are filed against it. In looking at the numbers and the type of

litigation that's pending against the institution, I notice that there are lawsuits pertaining to water quality and poor medical treatment that are disproportionately -- you know much more so than the other. Can you give me some understanding as to what's going on in these particular types of lawsuits and what are you doing to try to bring those types of suits down?

MR. FINN: It will be my pleasure, Senator. Thank you. Regarding the water, at Deuel Vocational Institution what we have is a prison that was built in a flood zone back in '49, '50 and '51. And it's like a bowl. And it's right in the middle of agricultural land. And with the buildings of Tracy going on, which is now the bedroom community of the Bay Area and the removal of a lot of the farm land being substituted with asphalt, that runoff comes right to this bowl.

But specifically, we test our water every day, and we test our water once a week, and we send results out to a private contractor to take a look at our lab results. And once a month, we send our reports to health care services and we've been doing that for years because of where the prison was sited.

The water absolutely, positively passes every test for being healthy and suitable to drink. It does not pass the test for smell, does not pass the test for how it

looks, does not pass the test for its taste. And that is an issue throughout the San Joaquin valley, not just Deuel Vocational Institution. What we're doing about it, like many communities, not just in California but throughout the world, is we're attempting to find other water sources. We're attempting to buy water from Tracy to buy water from Stockton. And we're in line with many other people because of the building boom.

But we are very concerned about our water. The lawsuits that you mentioned, there are various stages of those lawsuits, where the inmates themselves who don't like the taste of the water have filed their own suits regarding that. We are very concerned about our water and we've not yet quote unquote "flunked" an unhealthiness test with the water.

SENATOR ROMERO: And what about the medical treatment?

MR. FINN: Wide variety of various lawsuits regarding medical treatment. The majority of which really are in the area of an overall departmental kind of concerns about access to mental health, much more so than specific to Deuel Vocational institution. There's been a complete evolution of medical care inside of the State Department of Corrections for the last ten years or so.

And access for care, issues such as individuals

on the street and their access to care versus those incarcerated is something that continues to be evolved.

Examples specific might be an inmate that believes that he should have received treatment for an infliction that he had before he came to prison that is not life threatening and is not getting the care quick enough or not getting the drugs that he would like, that would spur a lawsuit and there are other examples like that.

SENATOR ROMERO: Okay.

MR. FINN: Basically access to care, Senator.

SENATOR ROMERO: Thank you.

SENATOR JOHNSON: All right, witnesses in support, please.

Same admonition as the earlier witnesses.

Brevity is the soul of wit here.

MS. THOMAS-VILLARONGA: My name is Joyce Thomas-Villaronga. I'm with CSEA Civil Service Division. I'm also a member of the Correctional Institutions Committee, going around checking out the Wardens to make sure they're doing what we need them to do.

And we met with Warden Finn, actually I was real impressed because he was out with the rank and file non-custody every day lowest paid in the institution out in the -- they have like a little break area outside that

he was sitting out there with them, which was real impressive.

We did have some issues, most of them pertaining to the reception center, because I worked in the reception senator. Those are not anything -- he kind of inherits that arena, because it's the reception center. It's very difficult and you have unique issues, but he was very personable.

He did respond back to our issues in writing, which is the first time we've ever received that from a Warden. Took the issue to heart, responded back with his support as to what he was willing to do, and so we can hold him to those areas, so we're very much in support of him.

SENATOR JOHNSON: Thank you very much.

MS. PALERMO: Good afternoon. My name is Margie Palermo, and it is an honor to be here today to speak on behalf of Warden Finn. I have a son incarcerated at DVI and he has served 13 years on a 15 to life sentence. I am a member of the Citizens Advisory Committee and a member of the Family Council, which is a joint effort of concerned citizened inmate families and supported by Senator Polanco and Senator Vasconcellos.

As a member of Family Council, it has been brought to my attention how highly regarded Warden Finn is

by DVI inmates and families. Since my association with Warden Finn, I've developed trust and respect for a truly caring human being.

In his capable hands DVI staff, inmates and their families and CDC will prosper under his leadership.

Thank you.

SENATOR JOHNSON: Thank you, ma'am.

Sir.

MR. HOFFMAN: Good afternoon, senators. Robert Hoffman attorney at law. I've known Claude Finn for over 20 years. I can recommend him as someone with the highest qualities, and we're lucky to have him.

Thank you very much.

SENATOR JOHNSON: Thank you, sir.

MR. ELY: Brian Ely. I'm Chief Medical Officer for Sutter Connect, personal friend of Claude for 17 years also. And I know him to be a man of integrity and courage and creativity and compassion and I'm here to give him my personal support.

SENATOR JOHNSON: Thank you, sir.

Ma'am.

MS. HEUSEL: My name is Debra Heusel. I am the CCPOA chapter President at Deuel Vocational Institution. And I've been there for 15 and a half years. And when you find a manager that views his staff as an asset, someone

that communicates with his staff on a regular basis and believes we can work together to get the job done within the guidelines set forth for us to follow, you have an effective Warden.

Claude Finn is that man.

SENATOR JOHNSON: Thank you very much.

MR. ALVES: Good afternoon, senators. I'm John B. Alves. I'm employed at Deuel Vocational Institution as a Correctional Lieutenant. I've been in the system nearly 30 years, 26 of those years have been at Deuel Vocational Institution. I'm currently the CCSO President, Chapter President, of Deuel Vocational Institution.

I represent a majority of the supervisors there. I'm here in support of Mr. Finn today, and I hope for him to be the Warden officially when he walks out today.

He brings a different dynamic to DVI. I've been through all but two Wardens at Deuel Vocational Institution, and he's good, if not better than any of them that have been there.

And he has a mutual respect with all supervisors. We don't always agree with him, but we agree that he's a respectful person and we enjoy Mr. Finn.

Thank you.

SENATOR JOHNSON: Thank you, sir.

MR. VANDER WAL: Tom Vander Wal. I'm the

Chairman of the Citizens Advisory Committee. I've been affiliated with the institution since about 1984. This is my 6th Warden I've worked with. Claude has a lot of compassion. He has a very much open-door policy. If there's concern or whatever, you can always contact him. He returns your telephone calls. And he has been a real asset to our committee and I feel a real asset to the institution.

If there is a problem, he finds a way to resolve it and he's every open and tells us what's going on and what's happening at all times.

SENATOR JOHNSON: Thank you, sir.

Other witnesses in support briefly.

MR. ALEJANDREZ: My name is Daniel Alejandrez. I'm the Director of Santa Cruz Barrios Unidos.

MS. SOLOMON: My name is Mary Lou Solomon, and I'm the Programs Director of Santa Cruz Barrios Unidos.

MR. ALEJANDREZ: We're a violence prevention organization. It's a national organization. And one of the things that we do is try to keep our young people out of prisons. But also to try to work with them while they're in prison.

And we're here in support of Mr. Finn because he feels very strong in terms of what's going on in the Department of Corrections, but to be able to go in there

and to support the inmates so that they can have an opportunity when they get out. And we've been given that opportunity to -- we've been there seven years now, and we're much in support of Mr. Finn, because we're doing some good stuff.

And if you look at the inmate population that we've been working with, there's not a discipline problem and they're supporting our program.

SENATOR JOHNSON: Thank you, sir.

MS. SOLOMON: I'm in support of Mr. Finn. Mr. Finn has been very generous to us, allowing us time in the facility working with the staff and mostly the inmates, and I want to say that I give him my full support. It's very difficult to be here.

MR. FINN: Tell me about it.

SENATOR JOHNSON: Thank you very much.

Final witnesses in support please.

MR. QUIROZ: Excuse me. I'm in private industry, so bear with me a little bit. I may not always be appropriate here, but my name is Bill Quiroz. I'm vice president of A. Teichert and Son. And we're the ones that paved that stuff that may be causing the water problems. I don't know, but we've been around for awhile.

Also, just a little bit of an infomercial here, we're also the contractor who paved the original concrete

around the State Capitol, so anyway just a little plug in there.

(Laughter.)

MR. QUIROZ: But anyway one of the things that I think folks probably notice that I never met a man with a strong presence. And you can probably tell in his speaking the level of confidence this man speaks. And I've been around a lot of leaders in my time, and he's one I can consider not only a strong fan, but a mentor of mine. I seek for advice with him.

And particularly, you know, there's times where you know -- I never -- I've always admired his wisdom, so anyway to cut this pretty short, Senator Johnson, he has my endorsement and hopefully you folks will confirm this man.

SENATOR JOHNSON: Thank you, sir.

MR. ARMISTEAD: My name is Milton Armistead. I'm an attorney in private practice in Sacramento and I've been that for 24 years. It's with great honor and a privilege that I sit here and speak for Claude Finn. He's a man of high integrity and exemplary abilities as you well know.

Thank you.

SENATOR JOHNSON: Thank you, sir.

MR. BROWN: My name is George Brown. I met

Claude Finn in May of 1972. And I am the one that brought him into State service. We were conducting an interview in Los Angeles. I was working at the State Personnel Board at the time. He was so impressive during that interview, we hired him before he left the interview. I'm pleased to see that his progress has been exemplary, consistent with that opinion that I had 29 years ago.

I support him 100 percent.

SENATOR JOHNSON: It's always nice to have one's opinions validated.

(Laughter.)

SENATOR JOHNSON: At least I'm told that that's the case.

(Laughter.)

SENATOR JOHNSON: Witnesses in opposition please?

Going once.

All right.

SENATOR KARNETTE: Move it.

SENATOR KNIGHT: Mr. Chairman, I was just going to say I'm convinced through the testimony and the conversation with Mr. Finn that we'd better confirm him quickly.

(Laughter.)

MR. FINN: Thank you, Senator.

SENATOR JOHNSON: Warden, have you any family

members here that you'd care to introduce?

MR. FINN: Deuel Vocational Institution is a family of mine. They're all listening. Hello, DVI. Thank you for your support, and everyone here in support of me thank you.

(Laughter.)

SENATOR JOHNSON: All right, do we have a motion?

SENATOR KARNETTE: Move.

SENATOR JOHNSON: Senator Karnette moves. Secretary, call the roll.

COMMITTEE SECRETARY WEBB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEBB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEBB: Knight aye.

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEBB: Romero aye.

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEBB: Johnson aye.

SENATOR JOHNSON: Warden, congratulations.

MR. FINN: Thank you, senators.

(Laughter.)

SENATOR JOHNSON: All right. We have a lot of meeting ahead of us, so I'd appreciate it if people who are exiting the room could do so quietly.

All right, Brett Granlund as a member of the Board of Prison Terms.

MR. GRANLUND: Questions?

(Laughter.)

MR. GRANLUND: I'm Brett Grandlund. I'm here before you today to seek confirmation as a member of the Board of Prison Terms. I appreciate the opportunity to be here. I've had a chance to meet with most of you over the past week and discuss some of the issues facing the Board.

As I'm sure you're all aware, I served in the legislature from 1994 till 2000 when I was termed out. And prior to that, I was in business for myself and still maintain an interest in my private business in the electric sign and outdoor advertising industry.

And the Governor appointed me in February to this Board. And I'm here today looking for your confirmation and your favorable consideration, and answer any questions you may have.

SENATOR JOHNSON: Senator Knight.

SENATOR KNIGHT: Yes, thank you, Mr. Chairman.

Mr. Granlund, what do you feel about the decision review process, do you think it needs to be modified? Is

it doing its job or not?

MR. GRANLUND: I've spent the last, really, the last month or so trying to understand exactly how it works. And I think there are cases that some believe that a review is requested by decision review, simply because there was a disagreement in the opinion of staff with the decision made by the panel in the field.

And none of mine have been there yet, so I haven't been involved in any of those yet. However, if that were the case, I would tell you I would be opposed to that. On the other hand, I've been assured by staff, and we've talked quite a bit in the last couple of days about how that works and how it will go through the process.

And I've been assured, and I would assure you that I will be keeping an eye out. But I've been assured by staff that no decision will be sent back and asked the Board to give a rehearing without first having a discussion with the Commissioners that were in the field and let them know of the discrepancy or any new information or any information that may have been left out or they felt was left out at the hearing, and if that would have potentially made a difference or if it would warrant a second hearing, first, in the opinion of the Commissioners that were actually in the field that actually had the opportunity to interact and discuss the

parole with that inmate and I think that that's very important.

And while I haven't had experience with it, I've heard that it hadn't worked that way or that there had been cases where that hadn't worked in that manner, but I've been assured that that is the policy and that is the way that the process will be handled.

SENATOR JOHNSON: Senator Karnette.

MR. GRANLUND: And just lastly, I'd say if two other Commissioners and a Deputy if they've made a decision in the field, I wouldn't be in favor of overruling or retrying that decision. I think they're there to make a decision. They're the ones who speak directly with the inmate and with the District Attorney and the inmate's representative. They're the ones with the packet in front of them. And if they make a decision, it ought to stand, unless there is something significant that would have changed -- very possibly would have changed the outcome of that hearing.

SENATOR KNIGHT: Thank you.

SENATOR JOHNSON: Senator Karnette.

SENATOR KARNETTE: I understand there's a real back log of cases. And as a result a lot of times an inmate is denied parole, they have to wait longer and longer. How do you see us resolving this backlog and how

do you think it will take? We have about 2,000 cases?

MR. GRANLUND: I think there's about 2,000 cases in the backlog. And I know it's of great concern, naturally first and foremost to the inmates and their families that are awaiting potential release. I think that the Board is positioned now to really knock that backlog down. And I would tell you that we have had a short board, and now the Board is full. We have all nine members on the Board. We can actually run four panels a week, by doing four different institutions a week.

Currently, I think we're doing 22 hearings per panel. And so that will take us up to 88 -- could take us up to 88 hearings a week or, yeah, with the four. And Senator Burton has a bill that could allow us to use one Commissioner and one Deputy Commissioner. If that were to be signed into law, we could actually run eight panels a week.

Of course, naturally that increases tremendously the workload just as it would if you can imagine what would happen to the staff in this building, if we all of a sudden went from 40 senators to 160 senators and every body was introducing the same amount of bills and there would be a lot of support work to be done there.

And I would assume that whether we work the four panels a week or if the Burton bill were to become law and

we could do eight panels a week, that the staff at BPT would find a way to handle that increased workload until we get that backlog down and under control.

So while I was real worried about that backlog, even as much as a month ago, I think now there is a plan underway to get it addressed.

SENATOR KARNETTE: I would think what you said about the extra clerical work, who would be -- what department would be in charge of efficiently in that area, because I can see that as really being a bottleneck. Even though all of you had the hearings and you do your job, but the clerical job, in keeping -- who has to make that more efficient?

MR. GRANLUND: Well, that actually would be the job, I guess, of the Chairman and the Executive Officer. And I know that I've been having discussions with them when time permits. And I think everybody is recognizing -- remember, Senator, we do have a new board.

It's virtually all new members, I think. Commissioner Munoz with a little over, maybe a year and a half, I believe, I'm not sure exactly on that number, is the most senior member of the Board.

And I think there have been some problems, and I think that they've been certainly aired and we're well on the road to making more progress, and particularly with a

full board now. I know that that has been a problem in the past.

SENATOR JOHNSON: Senator Romero.

SENATOR ROMERO: Thank you. Have you been trained on battered womens' issues? An if you can briefly describe what type of training that has entailed?

MR. GRANLUND: Well, it was nearly a full day, and I think it was my second day on the job. The first day was an orientation basically, and then pretty extensive BWS syndrome training, as well as ADA training. Those were two of the issues that the staff spent a lot of time bringing us up to speed and gave us lots of literature to read and so forth.

And I think it's pretty good training. Although, remember, I'm pretty sympathetic to that issue and so don't feel I need a lot of coercion to be supportive. I think it's a serious problem in this society. And I think that sometimes you can have people who are driven to absolute desperation through both physical and severe mental abuse. And I think we have to recognize that.

And, you know, it wasn't -- years ago, it wasn't an acceptable defense. It wasn't recognized and so forth. Now, we can and, in fact, we do consider that battered woman's syndrome. I've only served it at one prison one week of hearings at the Womens Institution.

And we had several actually on the agenda, but for one reason or another, not at our request, actually at the request of the inmates, either those things were postponed or some of the women had withdrawn their complaint, if you will, or their claim of Battered Woman's Syndrome. There's an extensive review and investigation conducted by BPT. And as we're recognizing that more and, in fact, fully recognizing that that exists, that BWS exists.

Part of the review and the investigation process winds up with the second review with the inmate to talk about the things that have been found through the investigation and see if the case can be established that, in fact, they were suffering from BWS.

And I had just I think two of those and both of them had declined the second interview and said well I don't really want to pursue this, at this point. So I haven't had much experience with dealing with it yet, but I hope to in the future.

SENATOR ROMERO: Thank you.

SENATOR KNIGHT: Move it.

CHAIRPERSON BURTON: Well, did we hear from the opposition?

SENATOR JOHNSON: We haven't heard from either support or opposition at this point.

CHAIRPERSON BURTON: Support briefly.

Anybody that spends time with him in Brannan's has to recuse himself.

(Laughter.)

MR. VOGTS: On behalf of the L.A. County Peace Officers Association we urge your aye vote.

(Laughter.)

MR. FARIA. I'm Clancy Faria, President of PORAC, and we've had an outstanding relationship. The man is a great worker and we support him.

MR. ERWIN: My name is Jim Erwin. Pleasure to meet with you today and speak on behalf of Mr. Granlund. On behalf of the San Bernardino County Safety Employees Association, I urge your affirmative vote for Mr. Granlund. And also on behalf of the Association of Orange County Deputy Sheriff's, the Long Beach Police Officers Association, the Anaheim Police Officers Association --

CHAIRPERSON BURTON: Okay, we got it.

(Laughter.)

MR. ERWIN: Thank you.

MR. WATTLEY: Good afternoon, senators. My name is Keith Wattley. I'm a staff attorney with the Prison Law Office. And I don't really oppose Mr. Granlund, but I come here today to highlight some of the concerns that we have and lifers and their families and advocates have.

I've kind of spelled those out in a letter that I hope all of you have received by now.

CHAIRPERSON BURTON: We have it in the report, exactly, sir.

MR. WATTLEY: I won't elaborate, but I hope that Mr. Granlund and any Commissioner of the Board of Prison Terms is committed and truly committed to resolving some of those issues. The backlog continues, despite a relatively full board now.

We hope that he and the other Commissioners are truly committed and that the senators consider how committed these Commissioners are in determining whether or not to confirm them.

Thank you.

CHAIRPERSON BURTON: I appreciate that. Actually, Mr. Granlund came up to us, made some suggestions to the Committee on how to deal with the backlog, which is now finding its way through the Legislature in a bill.

And so I think that you'll find that he's independent, he's fair, you know, he's tough, but I feel better about him than I do many of the other members on the Board, because he's going to do what's right and he doesn't worry about what the consequences are going to be.

And one of the things that I would ask Mr.

Granlund who we probably should ask somebody and I don't know if it's Pressley, but it seems to be -- I'm trying to figure out how easy it is where they make these people, what do you call them, the Deputy Commissioners.

MR. GRANLUND: Deputy Commissioners.

CHAIRPERSON BURTON: And that seems just like a swamp of political patronage. And it's not even political patronage emanating from the Legislature or the Governor in many ways, but from within side that department. And I think that's one of the things, Nettie, that we're going to want to look at and maybe you can do something about that in the budget.

But thank for your concern.

MR. WATTLEY: I appreciate that. Thank you.

CHAIRPERSON BURTON: Any other witnesses.

Moved by Senator Knight.

Call the roll.

COMMITTEE SECRETARY WEBB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEBB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEBB: Knight aye.

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEBB: Romero aye.
Senator Johnson?
SENATOR JOHNSON: Aye.
COMMITTEE SECRETARY WEBB: Johnson aye.
Senator Burton?
CHAIRPERSON BURTON: Aye.
COMMITTEE SECRETARY WEBB: Burton aye.
CHAIRPERSON BURTON: Congratulations, Brett.
MR. GRANLUND: Thank you very much.
(Applause.)

CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee hearing was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of June, 2001.

JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
License No. 10063

430-R
Additional copies of this publication may be purchased for $3.00 per copy
(includes shipping and handling) plus current California sales tax.

Senate Publications
1020 N Street, Room B-53
Sacramento, CA 95814
(916) 327-2155

Make checks payable to SENATE RULES COMMITTEE.
Please include Stock Number 430-R when ordering.

R9
2001
no. 22

CA
Legislature

HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

DOCUMENTS DEPT.

JUL 18 2001

SAN FRANCISCO
PUBLIC LIBRARY

STATE CAPITOL
ROOM 3191
SACRAMENTO, CALIFORNIA

MONDAY, JUNE 11, 2001
1:35 P.M.

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 3191

SACRAMENTO, CALIFORNIA

MONDAY, JUNE 11, 2001

1:35 P.M.

REPORTED BY:

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

APPEARANCES

MEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to Senator Johnson

TIM SHELLEY, Consultant to Senator Karnette

CHRIS BURNS, Consultant to Senator Knight

RYAN SHERMAN, Consultant to Senator Romero

ALSO PRESENT

ALICIA D. BECERRIL, Assistant Chief Counsel
California Unemployment Insurance Appeals Board

CHRISTY BOUMA,
California Professional Firefighters Association

MICHELLE CASTRO,
SEIU

TIMOTHY T. CREMINS, Member
Industrial Welfare Commissioner

APPEARANCES CONTINUED

ALSO PRESENT

TOM GARDNER,
CDF Firefighters

SHERRIE V. GOLDEN,
California State Employees Association

SHANE GUSMAN
California Teamsters Public Affairs Counsel

BOB HOUSTON
Concrete Contractor

DAVE LOW
California School Employees Association

GEORGE M. MARCUS, Member
The Regents of the University of California

A. MILLER MEDEARIS, Member
Unemployment Insurance Appeals Board

ART POLASKI, Secretary-Treasurer
California Labor Federation

AARON READ
Professional Engineers in California Government

GARLAND ROSAURO,
Operating Engineers Local 3

SCOTT WETCH
California State Building Trades Council

ALFRED K. WHITEHEAD, Member
Public Employment Relations Board

INDEX

	PAGE
Proceedings	1
Governor's Appointees:	
GEORGE M. MARCUS, Member The Regents of the University of California	1
Opening Statement of Support by Chairperson Burton	1
Opening Statement by Mr. Marcus	2
Statement of Support by Assemblymember Simitian	6
Statement of Support by Assemblymember Alquist	8
Questions by Senator Knight	
SB1 appeared to be in line with 209, and so what are we going to change, what was the real problem?	8
Are you saying one of the problems was the procedure in putting forth and voting on SB 1 and 2?	9
Questions by Senator Karnette	
How do you see the labor issues that have come about at us and how do you fee like they have been?	11
Questions by Senator Romero	
What can you do to facilitate the desrie of working people to be able to get their degrees?	12
And what about weekend classes?	13
Motion to Confirm	14
Committee Action	14

INDEX CONTINUED

	Page
TIMOTH T. CREMINS, member Industrial Welfare Commission	15
Opening Statement of Support by Art Polaski	15
Opening Statement of Support by Garland Rosauro	17
Opening Statement by Mr. Cremins	17
Questions by Senator Romero	
Can you tell me what the pros and cons are of adding farm workers to the IWC?	18
Questions by Senator Knight	
Have you worked with the cowboys?	19
Witnesses in Support:	
SHERRIE V. GOLDEN, California State Employees Association	19
SCOTT WETCH State Building and Construction Trades Council	20
AARON READ Professional Engineers in California Government	20
CHRISTY BOUMA California Professional Firefighters	20
SHANE GUSMAN California Teachers Public Affairs Council	20
BOB HOUSTON Concrete Contractor	20
DAVE LOW California Schoole Employees Association	20
MICHELLE CASTRO SEIU	20
Motion to Confirm	20
Committee Action	21

INDEX CONTINUED

	Page
A. MILLER MEDEARIS, Member The Regents of the University of California	21
Opening Statement of Support by Alicia Becerril	21
Questions by Chairperson Burton	
What has the impact of the field offices closing been?	22
Questions by Senator Karnette	
What's the maximum a person can get for unemployment and how do we rank with other states?	23
Motion to Confirm	25
Committe Action	25
ALFRED K. WHITEHEAD, Member Public Employment Relations Board	
Opening Statement of Support by Jim Ferguson	26
Opening Statement by Mr. Whitehead	27
Questions by Chairperson Burton	
Can you give me the names of either Myers, Millias or Brown?	29
Witnesses in Support:	
TOM GARDNER, CDF Firefighters	29
CHRISTY BOUMA California Professional Firefighters	29
SHERRIE GOLDEN, Calfornia State Employees Association	29
AARON READ, Professional Engineers in California Covernment	30

INDEX CONTINUED

	Page
DAVE LOW California School Employees Association	30
MICHELLE CASTRO SEIU	30
ART POLASKI, California Labor Federation	31
Motion to Confirm	31
Committee Action	31
Termination of Proceedings	31
Reporter's Certificate	33

PROCEEDINGS

COMMITTEE MEMBER JOHNSON: We're going to be taking up George Marcus as a member of the Regents of the University of California.

And Senator Burton.

CHAIRPERSON BURTON: Thank you very much. Mr. Chairman and members, it's really a pleasure and an honor for me to present to the Committee George Marcus for confirmation as a member of the Board of Regents.

George Marcus is one of these people who is truly a self-made individual, public schools in San Francisco, public universities or college, I still call it, and I think when George went there, it was San Francisco State. He then went on to work both in banking, in real estate and then he founded his own firm, which is one of the largest most successful real estate brokerage investment development companies, he's founded two banks, more importantly two very wonderful restaurants including Corcori that's in my district. He's been eight years as a State University Trustee. He's been a trustee at the Fine Arts Museum in San Francisco, Trustee of the San Jose Cleveland Ballet, board member of the International Orthodox Christian Charities which helped organize aid to Yugoslavia.

He brings much experience and enthusiasm to this

post. And although he was not a graduate of the University, he comes out of our higher public education system, our public education system in high school as a young man. And I say he's one of those rare individuals who started out with basically a lot of grit and determination, intelligence, and I'd have to say possibly a little bit of luck, but from being a graduate of Poly High and State College to getting where he is now is an indication of the type of excellence he will bring to the Board of Regents, and with that I recommend to you, my dear friend, George Marcus.

COMMITTEE MEMBER MARCUS: Mr. Marcus, welcome.

MR. MARCUS: I'm not going to embellish too much about my background. I'd just like to point out the things I have been in.

SENATOR KNIGHT: Somebody already has.

MR. MARCUS: I'm sorry?

SENATOR KNIGHT: Somebody already has.

MR. MARCUS: Oh, someone has. This is not a matter of being boastful, but I do want to again remind everyone of my commitment to excellence, and I think it will show that I have the ability and the judgment to support not only good policies, but the proper leadership at the university, just by pointing out a couple of things which are not on my resume.

The companies that I have formed, the public company, that's Essex Property Trust, is a trust that operates within the New York Stock Exchange. It is one of 100 companies -- it is the leading company of 100 companies over the last five years in terms of the measurement of success.

The private enterprises that I'm engaged in have all been very successful. I have the largest investment brokerage company, as John has said, in the United States. And I just don't want to again be boastful, but I want to support, I think, my strong feeling about excellence and what I will bring to the university.

Let me start out with some of the issues that I know the university is facing and that I will be addressing as well.

The first is admissions. And, you know, I don't want to belabor this issue about the Greek immigrant story, because you've heard it many times, I think, by the other Greek immigrants. But my parents did come over. They didn't have a day of education, neither my mother nor my father.

I was fortunate enough to come from a family that emphasized education. I was a first generation college student in my family, so I can appreciate more than most the importance of access to higher education, because

without that we don't have the level playing field that is necessary. We can't arrive at the American dream, which I am so grateful that my parents did decide to come to this country and allow me to participate in this wonderful democracy of ours.

So I am here to pledge to you that I will continue the outreach program to help the disadvantaged students, whether they're first generation or in anyway disadvantaged to enter the university and to work with the faculty senate to continue -- they've been studying this issue right now and they'll be presenting it to the regents by the end of the year. So I pledge that I will be working with them to provide the most enlightened admission policies that exists in any university anywhere.

The budget. I don't have to mention to all of you that the budget is under some stress because of the slowing economy. I think my background in business, business cycles and other nonprofits, I think, will help in determining better allocation of more scarce resources. And I think I stand for that.

I'm very excited about the new campus. I will go through this quickly. I'm very excited about the new campus and I believe that it's an opportunity for the regents and especially a regent like myself who has both a real estate background and has an educational background

at CSU to create a model university, a research university for the next millennium.

Resources. I don't have to tell you that, you know, I'm charged with making sure that the university uses the resources effectively and efficiently, and it has adequate resources in which to do that with. And I will now lobby all the senators to make sure that we are well treated in this budget negotiation that's going on right now, which is my job as well.

Title two, the increase in enrollment will be over 60 percent -- excuse me, 40 percent in the next ten years. I think everyone is well aware that we are charged with admitting those students, providing the high quality of education and not compromising in that regard.

I'll go quickly. Longer term goals are to work with the hospitals and make sure that they are viable in the future. This isn't unique to the UC system. It's hospitals, in general, in the United States. So I feel -- I'm very interested in this issue. I'm on Health Services Committee and I believe I can help solve some of these issues because of my background.

Most importantly, I think the university consists of the proper administrative leadership and faculty. Most research universities really are based on high quality faculty. We have 22 Nobel Laureates, 270 Academy of

Science Members. And I pledge, and I believe that I should be responsible for this as well as the other Regents, to try to increase that by at least 50 percent during my tenure.

Lastly, economic vitality. The university has throughout its existence contributed to the state's well-being, whether it's the agricultural mission that it had in the last hundred years or whether it's the current initiatives that the Governor is proposing, and they're the ones that relate to the institutes for science and innovation, which really will pare private funding and public funding to do research and innovation in areas that will produce more jobs and more economic vitality.

My role in the Silicon Valley and I've been involved in venture capital, I think suited me well to support this creative mission that the university has.

A lot of issues to deal with, a lot of great ideas. It's up to the Regents to pick those and work with them. I want to thank all of you for your time and attention.

SENATOR JOHNSON: Thank you, sir. In the interests of bicameral cooperation, Assemblymember Simitian has some comments.

Please, come forward, sir.

ASSEMBLYMEMBER SIMITIAN: Thank you. In the

interests of continued bicameral cooperation, I'll be brief.

(Laughter.)

I'm Assemblymember Joe Simitian from the 21st assembly strict. I wanted to be here today because it's been my pleasure and privilege to represent George Marcus and his business enterprises and his home in my community for better than 15 years. I've known him and been a friend for better than 15 years.

He brings not only the financial expertise, but I think the kind of values that all of us would agree are appropriate to serve on the Board of Regents.

I think too often the debate about UC is one of either/or in terms of excellence or opportunity. I think what you'll find with George Marcus and what you've heard and seen here today is someone who's committed to both excellence and opportunity. That's the kind of life he has led. That's the kind of community leader he has been. And it is the kind of Regent I feel sure he will be as well.

I wanted you to know that as someone who has known him and worked with him over these great many years, he has my strongest support. Given the fact that you have my letter of last week, I'll let my comments go at that, unless there are other questions.

SENATOR JOHNSON: Well, I don't want to carry this bicameral spirit to an extreme, but Assemblymember Alquist also would like to say something.

Thank you, sir.

ASSEMBLYMEMBER SIMITIAN: Thank you.

ASSEMBLYMEMBER ALQUIST: Elaine Alquist, State Assembly. You also received my letter of support. I know George really in a different way. We attend the same church. We are both Greek heritage, and I understand his values. And I know that it is really important to him that all students receive a good education and have opportunity in California and America, and I ask for your strong support of his confirmation.

SENATOR JOHNSON: Thank you.

Senator Knight, any questions?

SENATOR KNIGHT: Thank you, Mr. Chairman, yes. We discussed before, George, a number of things. And I'm still confused about the resolution one and two. You repealed 1, and it didn't do anything other than identify how you were going to admit students to the university. And you repealed it, and you're going to come up with something different.

But SB 1 appeared to be in line with 209. And so what are we going to change? What was the real problem?

MR. MARCUS: As you know, the rescinding of SB

one and two had a lot to do with the, I think, the lightening rod that occurred because of those two resolutions that were passed in '95.

As a practical matter, the process should have been sent to the faculty senate. There's a systemwide Senate. The Senate generally hears any new admission issues, and then they present it to the Regents and the Regents discuss it and approve it.

What we did by rescinding it and sending it to the Senate now, that's where it is today, they're going to be reviewing our admission policies. And in accordance with the law, which is 209, they're going to come up with the most enlightened and outreaching admission policies that the UC can legally have.

SENATOR KNIGHT: Are you saying that one of the problems and one of the things that caused the lightening rod was the procedure used in putting forth and voting on SB 1 and 2?

MR. MARCUS: I wasn't there at the time, Senator, but I think that it was just blown significantly out of any logical proportion. And if you'll note, all of the Regents, both the supporters of SB 1 and 2, and the opponents of SB 1 and 2, unanimously supports this current resolution, which sends it back to the Senate.

SENATOR KNIGHT: And that's all the current

resolution does is send it back, and now you're going to come up with a new resolution that will define your admissions procedures?

MR. MARCUS: Correct, that's what the a resolution says.

CHAIRPERSON BURTON: I might add that one of the first resolutions anyone introduced by Regent Marcus was to get some addendum into the Chuck Yeager biography with the present.

(Laughter.)

SENATOR KNIGHT: Hey, I'll bring you a couple of books --

CHAIRPERSON BURTON: That's got you're name in them.

SENATOR KNIGHT: That's got my name in them.

CHAIRPERSON BURTON: I was never so disappointed in my life, Senator.

SENATOR KNIGHT: I can't help that I don't get along with Chuck too well.

(Laughter.)

SENATOR JOHNSON: That's a handsome offer from Senator Knight.

Any further questions?

Senator Karnette.

SENATOR KARNETTE: We talked a little bit. I

forgot to ask though, how you see the labor issues that have come about at UC and how do you see they might be resolved or do you feel like they have been?

MR. MARCUS: I'm not familiar specifically with what issues you're referring to. There are some issues of the casual labor issues.

SENATOR KARNETTE: Right, that's one.

MR. MARCUS: And the casual labor issues, I think there has been a resolution to those issues as of this time in the majority, and this is this issue of how casual labor is employed for, I think, at a thousand hours or six months, it then has all the privileges and rights of full-time employment.

SENATOR KARNETTE: Thank you. I have one more comment though. You say you're on the ballet board?

MR. MARCUS: Yes.

SENATOR KARNETTE: Well, I want to know if you've ever been to Jackson, Mississippi, because there's a real ballet. It's a great place for ballet.

SENATOR JOHNSON: It's a hotbed as it's well known.

(Laughter.)

MR. MARCUS: I haven't been to Jackson, Mississippi.

SENATOR KARNETTE: Well, you should go.

SENATOR JOHNSON: Well, we won't hold that against you, I assure you.

(Laughter.)

SENATOR JOHNSON: Senator Romero.

SENATOR ROMERO: Thank you. I have a question first and then just a general comment. I'm a product of the UC and my daughter will be starting at the UC next fall. UC is very special to me. Although, I've often heard it criticized as an elitist institution, not very much meeting the needs of working class students.

And one of the proposals has been to try to accommodate working people by offering weekend, evening classes accelerated courses. Not necessarily -- especially in graduate studies having a full-time -- you must be there full time as opposed to those students who have to work.

What can you do to facilitate the desire of working people to be able to get their masters and Ph.Ds, Bachelor's Degrees from the University of California, sort of, confronting this often time critique that it's an elitist institution.

MR. MARCUS: I think President Atkinson has started an initiative to review all of these off-campus study activities, the extension programs and other part-time programs especially in light of the computer

technology that's available today. I think it's somewhat inevitable. Historically, though, the faculty and many, many people believe that the enriching process of being in a classroom interacting with students and faculty is very, very important.

So I can't say it's done, but I think that inevitably it's going to move in that direction. It has to with technology.

SENATOR ROMERO: And what about weekend classes?

MR. MARCUS: I think summer has -- we have to utilize the capacity of the university, and summer is an opportunity for us to take these 5,000 new students that are coming in as well as students who want to have some extension or part-time activities.

SENATOR ROMERO: Thank you. If I may just make a general comment overall to members. I think you've got an incredible back drop. I notice again, too, you were a trustee with the CSU system. I applaud you on your fight to have diversity of students, and I expect that extends to faculty as well.

Just an issue for colleagues that I'd like to raise. I am concerned about the diversity of the composition of the Board of Regents. I'm a Latina. To my knowledge, I think there's one Latina on the UC Board of Regents. It would just be something that I hope that at

some point we can engage the administration in having a discussion, so that hopefully we can see more diverse candidates coming before the Committee to seek confirmation. And with that, I tend to cast a vote on your behalf.

SENATOR JOHNSON: Witnesses in support?

Going once, going twice.

Witnesses in opposition?

Speak now?

CHAIRPERSON BURTON: Is there family?

SENATOR JOHNSON: I'm coming to that.

CHAIRPERSON BURTON: I was just --

SENATOR JOHNSON: Move right along.

(Laughter.)

SENATOR JOHNSON: Do you have any family members you'd care to introduce.

MR. MARCUS: I'm very, very pleased to introduce my daughter Alexandria Marcus.

SENATOR KARNETTE: We see her around. Hi.

SENATOR JOHNSON: All right.

CHAIRPERSON BURTON: I'd like to move the nomination.

SENATOR JOHNSON: It's been moved. Secretary, call the roll.

COMMITTEE SECRETARY WEB: Senator Karnette?

SENATOR KARNETTE: Aye.
COMMITTEE SECRETARY WEB: Karnette aye.
Senator Knight?
SENATOR KNIGHT: Aye.
COMMITTEE SECRETARY WEB: Knight aye.
Senator Romero?
SENATOR ROMERO: Aye.
COMMITTEE SECRETARY WEB: Romero aye.
Senator Johnson?
SENATOR JOHNSON: Aye.
COMMITTEE SECRETARY WEB: Johnson aye.
Senator Burton?
CHAIRPERSON BURTON: Aye.
COMMITTEE SECRETARY WEB: Burton aye.
CHAIRPERSON BURTON: Congratulations.
(Applause.)
CHAIRPERSON BURTON: Mr. Cremins.
MR. CREMINS: Yes, sir.
CHAIRPERSON BURTON: Mr. Polaski.
MR. POLASKI: Mr. Chairman, Art Polaski, Secretary Treasurer of the California Labor Federation. I'm not here too often, Mr. Chairman and members of the Committee, but I'm delighted to be here today to sponsor, if you will, to commend to you this confirmation of Tim Cremins for the Industrial Welfare Commission. Tim has

gone through the ranks, if you will. He was in a five-year apprentice training program to become a plumber, became a journeyman plumber and has done legislative work on behalf of working people for quite a few years now. He is a member of the Operating Engineers Local 3, and is an advocate on behalf of particularly the operating engineers in his legislative advocacy.

He has served on a number of boards and commissions, particularly concerning the interests of working people. He has served on the inmate prison advisory program, the prevailing wage advisory committee, the Contractor's License Board advisory committee. He is very active and understands the issues affecting working people. And as you know, this is the primary commission of the State of California committed and dedicated towards the interests of working people.

It's very important that we have a representative of working people on this commission. There is no better person than Tim Cremins to do that. Based on his experience, he understands the issues of workers, is committed to advocating on their behalf, and I might add is also a practical person, and understands and knows how to work together with employers. And those are qualities that combined make him a terrific appointee to this commission and we would offer him up for your confirmation

today.

Thank you.

CHAIRPERSON BURTON: Go ahead.

MR. ROSAURO: Mr. Chairman, Garland Rosauro with Operating Engineers. I'm the political director with Local 3. And I'd like to support and ask your support for Tim Cremins for this Commission.

Thank you.

CHAIRPERSON BURTON: Tim.

MR. CREMINS: Tim Cremins, Operating Engineers, a recent appointee of the IWC. I was appointed in February of this year. The IWC, as you know in the past couple of years, has dealt with some very, very big issues that have changed the workplace in California. You, the Legislature, implemented AB 60. The IWC did regulations for that.

The IWC recently extended its jurisdiction into the construction industry, which had great concern to us, and also dealt with the minimum wage issue recently and is mandated to do so every two years.

I think in my capacity I can provide some balance and some understanding. As Mr. Polaski said, I've dealt with both labor and management issues for approximately 15, 16 years. And I think I provide a decent perspective of the impacts of the decision of the Board and the

impacts of the State economy. I can go on and on. I'm open to questions.

CHAIRPERSON BURTON: Senator Johnson?

SENATOR JOHNSON: No questions.

CHAIRPERSON BURTON: Senator Karnette?

SENATOR KARNETTE: No questions.

CHAIRPERSON BURTON: Senator Knight?

SENATOR KNIGHT: No questions.

CHAIRPERSON BURTON: Senator Romero.

SENATOR ROMERO: I just have one.

CHAIRPERSON BURTON: Yes.

SENATOR ROMERO: Let me just ask. There's been some discussion about including farm workers with the IWC. Can you tell me just quickly what the pros and cons might be of that.

MR. CREMINS: It's my understanding there has been a wage order issued for the agricultural industry. There's been some proposed amendments for sheepherders, that's dealt with both at the Commission and through bills here.

I do think there's some work that needs to be done in the agricultural industry. They were not represented for years, and they do need some oversight.

SENATOR ROMERO: Okay, thank you.

SENATOR KNIGHT: Mr. Chairman?

CHAIRPERSON BURTON: Well, I had a question, but I'll yield.

(Laughter.)

SENATOR KNIGHT: Excuse me.

CHAIRPERSON BURTON: Go right ahead.

SENATOR KNIGHT: Nobody was saying anything.

CHAIRPERSON BURTON: Go ahead. Well, it was a deep question.

Go ahead, Senator Knight.

SENATOR KNIGHT: You had worked with the sheepherders and negotiated with -- have you done anything then for the cowboys?

(Laughter.)

MR. CREMINS: The cowboys, not yet. I'm waiting for you to petition the Board for the cowboys.

(Laughter.)

MR. CREMINS: I'd be happy to deal with it.

Space cowboys.

SENATOR KNIGHT: No the regular cowboys.

(Laughter.)

SENATOR JOHNSON: Great tradition of John Wayne, I think.

CHAIRPERSON BURTON: Other witnesses in support briefly, really briefly.

MS. GOLDEN: Mr. Chairman, members, Sherrie

Golden, representing the California State Employees Association and we support Mr. Cremins.

CHAIRPERSON BURTON: That's a great color on you, Sherrie.

MS. GOLDEN: Thank you.

MR. WETCH: Scott Wetch on behalf of the State Building and Construction Trades Council in strong support.

MR. READ: Mr. Chairman and members, Aaron Read, Professional Engineers in California Government in support.

MS. BOUMA: Mr. Chairman and members, Christy Bouma with the California Professional Firefighters in support.

MR. GUSMAN: Mr. Chair and Members, Shane Gusman on half of the Teamsters in support.

MR. HOUSTON: Bob Houston on behalf of concrete Contractors in support.

MR. LOW: Dave Low, California School Employees Association in support.

MS. CASTRO: Michelle Castro on behalf of SEIU in support.

CHAIRPERSON BURTON: Opposition, briefly?

Bring anybody with you, Tim?

MR. CREMINS: I didn't, family is not here today.

CHAIRPERSON BURTON: Okay, move the nomination. Call the roll.

COMMITTEE SECRETARY WEB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEB: Knight aye.

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEB: Romero aye.

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEB: Johnson aye.

Senator Burton?

CHAIRPERSON BURTON: Aye.

COMMITTEE SECRETARY WEB: Burton aye.

CHAIRPERSON BURTON: Congratulations, Tim.

(Applause.)

MS. BECERRIL: I would like to introduce and present for your consideration Miller Medearis of the California Unemployment Insurance Appeals Board.

MR. MEDEARIS: I don't have a prepared speech.

CHAIRPERSON BURTON: Good.

MR. MEDEARIS: I like you. You appoint me and

I'll work hard on it.

(Laughter.)

SENATOR JOHNSON: You begin well, sir.

CHAIRPERSON BURTON: We do have your other statement for the record. If you just want to make some comments that would be fine.

Or we could move right into questions.

SENATOR KARNETTE: I have --

CHAIRPERSON BURTON: I've got a couple, how's that?

They're now filing because of -- what is the impact of the closure of the field offices been?

MR. MEDEARIS: I don't think there's been closure of the field offices, Senator.

CHAIRPERSON BURTON: Well, --

SENATOR KARNETTE: EDD.

CHAIRPERSON BURTON: Well, then either you're wrong or our staff is wrong. Well, they're in the process of closing them, emerging services, and just wondered what --

MR. MEDEARIS: We've just opened a new office in Oxnard.

CHAIRPERSON BURTON: Well, there you go. We're talking about the local EDD offices?

MS. BECERRIL: Right, you're talking about a

different jurisdiction. In terms of ours, there are 11 offices of appeal and 44 hearing sites, so if anything we've been increasing recently.

CHAIRPERSON BURTON: Well, now that the staff let me make a fool of myself, you have any questions, Senator Johnson?

SENATOR JOHNSON: No.

(Laughter.)

CHAIRPERSON BURTON: Senator Knight?

SENATOR KNIGHT: No.

MR. MEDEARIS: Thank you.

CHAIRPERSON BURTON: Senator Karnette?

SENATOR KARNETTE: Here we are on a roll, but I've got one question. What's the maximum a person can get for unemployment in this state and how do we rank with other states?

MR. MEDEARIS: If you mean the maximum per week, it's, I think, it's two --

MS. BECERRIL: Two hundred and thirty.

MR. MEDEARIS: -- two hundred and thirty dollars.

SENATOR KARNETTE: You have to make how much in your job in order to get that? I mean, what percentage of the job you lost?

In other words, if you made --

MR. MEDEARIS: I don't how that's figured. I

don't decide how much people get. I decide whether or not they're entitled, with other people, to receive it or not receive it.

SENATOR KARNETTE: And do you know how we rank?

MS. BECERRIL: Nine hundred dollars is the answer.

SENATOR KARNETTE: Nine hundred dollars for?

SENATOR KNIGHT: That's how much they have to make.

SENATOR KARNETTE: They have to make nine hundred in order to get --

MS. BECERRIL: Per quarter.

SENATOR KARNETTE: They have to make 900 --

MS. BECERRIL: Per quarter.

SENATOR KARNETTE: -- in order to get -- that doesn't make sense. I thought it was a third of their salary.

MS. BECERRIL: Let me ask Julie Krebbs to come up, because she's trying to get me the answer.

CHAIRPERSON BURTON: Well, how about you meet with the Senator.

SENATOR KARNETTE: Well, what I want to point out, I've got a reason for asking the question. We are very far down the list. Our people don't get very much in unemployment. And I just don't know if everybody realizes

that.

MS. BECERRIL: That is a good point.

MR. MEDEARIS: I agree with that?

CHAIRPERSON BURTON: Senator Romero?

SENATOR ROMERO: No questions.

CHAIRPERSON BURTON: Pleasure of the committee?

Call the role.

COMMITTEE SECRETARY WEB: Support or opposition.

CHAIRPERSON BURTON: Support?

Opposition?

Call the roll.

Do you have family here, sir?

MR. MEDEARIS: I do not.

CHAIRPERSON BURTON: All right, let's call the roll.

COMMITTEE SECRETARY WEB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEB: Knight aye.

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEB: Romero aye.

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEB: Johnson aye.

Senator Burton?

CHAIRPERSON BURTON: Aye.

COMMITTEE SECRETARY WEB: Burton aye.

CHAIRPERSON BURTON: Thank you, sir. Congratulations.

(Applause.)

CHAIRPERSON BURTON: Next, Alfred Whitehead, member PERB.

Mr. Ferguson.

MR. FERGUSON: Do you want me to lead off, Senator.

CHAIRPERSON BURTON: I would think that to introduce your colleague.

MR. FERGUSON: Chairman Burton and members of the Committee, sitting next to me is Alfred K. Whitehill, up for confirmation for the Public Employment Relations Board.

SENATOR KNIGHT: Whitehill?

MR. FERGUSON: Whitehead, excuse me.

SENATOR KNIGHT: I just wanted to know which one it was.

MR. FERGUSON: It's Whitehead, excuse me.

Members of the Committee, my name is Jim

Ferguson. I live at 3029 Buchanan Street, San Francisco, California.

As the highest ranking elected official of the International Association of Firefighters for California, Arizona, New Mexico and Hawaii, it's my pleasure to support the confirmation of Alfred K. Whitehead.

CHAIRPERSON BURTON: Mr. Whitehead.

MR. FERGUSON: On behalf of the 29,000 California Professional Firefighters --

(Laughter.)

CHAIRPERSON BURTON: Oh, I thought that was it.

(Laughter.)

CHAIRPERSON BURTON: This is not my day.

MR. FERGUSON: I'd be glad to answer any questions.

(Laughter.)

CHAIRPERSON BURTON: Mr. Whitehead, please.

MR. WHITEHEAD: Thank you very much, Mr. Chairman.

I am honored to appear before you as the Governor's appointee to the California Public Employment Relations Board. As you know, PERB currently administers the collective bargaining laws for both California State employees and its public education employees.

This year marks a milestone for PERB. On July 1

the Board will implement the Myers-Millias-Brown Act, which covers collective bargaining for local public agencies. And this legislative mandate as well as the other three statutes call for a board that is balanced in its membership and fair in its application of the laws.

With four decades of involvement in the public sector law, I bring a wealth of experience to PERB. My background has given my a keen perspective on the issues that are important to labor and management, one that comes from having sat on both sides of the bargaining table.

On the labor side, I have 28 years of experience as a professional firefighter, which has given my a vital understanding of the day-to-day concerns important to public employees. As the President of the Los Angeles County Firefighters Local 1014, I negotiated on behalf of front-line public safety personnel for many years.

On the management side, I served as 12 years as the general president of the International Association of Firefighters, negotiating with two separate unions that represented all of the IFF's employees. My background and my record on the Board since January reflect a balanced approach to labor relations.

I am committed to a fair and impartial application of the public sector laws, and I am honored to have been appointed and would appreciate your support in

my confirmation.

CHAIRPERSON BURTON: Could you give me the first names of either Millias, Myers or Brown?

MR. WHITEHEAD: George Brown.

CHAIRPERSON BURTON: George Millias and Fergie can give us Charlie Myers.

MR. WHITHEAD: And actually they came from my era.

CHAIRPERSON BURTON: Yeah. I have no questions. Senator Johnson?

SENATOR JOHNSON: None.

CHAIRPERSON BURTON: Senator Knight?

SENATOR KNIGHT: None.

CHAIRPERSON BURTON: Senator Karnette?

SENATOR KARNETTE: None.

CHAIRPERSON BURTON: Senator Romero?

SENATOR ROMERO: No.

CHAIRPERSON BURTON: Do you have any other witnesses in support, briefly?

MR. GARDNER: Tom Gardner, President of CDF Firefighters in strong support. He's the right person.

MS. BOUMA: Mr. Chair and members, Christy Bouma with theCalifornia Professional Firefighters in strong support.

MS. GOLDEN: Mr. Chair and members, Sherrie

Golden representing the California State Employees Association in strong support.

CHAIRPERSON BURTON: That's a good color on you.

(Laughter.)

MR. READ: Mr. Chairman and members, Aaron Read not only representing CDF Firefighters who are Local 2881, but also the Highway Patrol Association, Professional Engineers and the California Association of Professional Scientists. I've known Al Whitehead for 25 years when he worked for the LA county firefighters. He was very understanding and a very effective representative. And I enjoyed working with him 25 years ago and I know I'll continue to enjoy working with him as a member of PERB.

Thank you.

SENATOR JOHNSON: And that's a very nice haircut, Mr. Read.

(Laughter.)

MR. LOW: Mr. Chairman and members, Dave Low, California School Employees Association in support.

CHAIRPERSON BURTON: As is your's, Dave.

(Laughter.)

MS. CASTRO: Michelle Castro with SEIU representing over a quarter of a million public employees. We strongly support Mr. Whitehead.

Thank you.

CHAIRPERSON BURTON: That's a very nice --

(Laughter.)

MR. POLASKI: Mr. Chairman and Committee, Art Polaski, California Labor Federation. We don't support, we vigorously support. Thank you.

(Laughter.)

SENATOR JOHNSON: I'm glad you clarified that.

CHAIRPERSON BURTON: Any opposition?

Hearing none, move the nomination.

COMMITTEE SECRETARY WEB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEB: Knight aye.

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEB: Romero aye.

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEB: Johnson aye.

Senator Burton?

CHAIRPERSON BURTON: Aye.

COMMITTEE SECRETARY WEB: Burton aye.

CHAIRPERSON BURTON: Congratulations.

(Applause.)

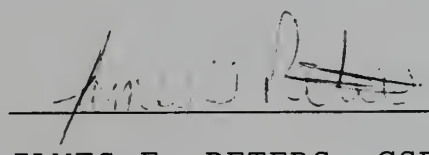
CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules hearing was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of June, 2001.



JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
License No. 10063

431-R
Additional copies of this publication may be purchased for $3.00 per copy
(includes shipping and handling) plus current California sales tax.

Senate Publications
1020 N Street, Room B-53
Sacramento, CA 95814
(916) 327-2155

Make checks payable to SENATE RULES COMMITTEE.
Please include Stock Number 431-R when ordering.

L500
R9
2001
no. 23

CA
Legislature

HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

DOCUMENTS DEPT.

JUL 18 2001

SAN FRANCISCO
PUBLIC LIBRARY

STATE CAPITOL
ROOM 3191
SACRAMENTO, CALIFORNIA

MONDAY, JUNE 18, 2001
1:30 P.M.

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 3191

SACRAMENTO, CALIFORNIA

MONDAY, JUNE 18, 2001

1:30 P.M.

REPORTED BY:

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

APPEARANCES

MEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to Senator Johnson

TIM SHELLEY, Consultant to Senator Karnette

CHRIS BURNS, Consultant to Senator Knight

RYAN SHERMAN, Consultant to Senator Romero

ALSO PRESENT

MARC APREA,
Compaq Computer Corporation,
Ralph's Grocery Company

MEL ASSAEAI,
California Association of Urban League Executives

DOUG KIM,
Consumer Attorneys of California

ALBERT LeBAS
California Peace Officer's Memorial Foundation

APPEARANCES CONTINUED

MARC MARCUS,
California Applicant Attorney Association

JANICE JAMISON MURRAY, Member
Workers' Compensation Appeals Board

WILLIAM K. O'BRIEN, Member
Workers' Compensation Appeals Board

JOSE PEREZ
California Hispanic Chambers of Commerce

JOAN M. WILSON, Director
California State Lottery

INDEX

	Page
Proceedings	1
Governor's Appointees:	
JANICE JAMISON Murray, Member Workers' Compensation Appeals Board	1
Opening Statement by Ms. Murray	1
Questions by Chairperson Burton	
Have you been there long enough to determine whether or not the treating physician's presumption has been effective, not effective or what?	2
Witnesses in Support:	
MARC MARCUS, California Applicant Attorneys Association	3
DOUG KIM, Consumer Attorneys of California	4
MEL ASSEAEAI, California Association of Urban League Executives	4
Motion to Confirm	4
Statement of Support by Senator Figueroa	4
Committee Action	5
WILLIAM K. O'BRIEN, Member Worker's Compensation Appeals Board	6
Opening Statement by Mr. O'Brien	6
Questions by Chairperson Burton	
Have you been there long enough to get a point of view on the treating physician's presumption?	7

INDEX CONTINUED

	Page
Questions by Senator Karnette	
What does the phrase treating physician's presumption mean?	8
Questions by Chairperson Burton	
Do you have much of a backlog?	8
Would it make any difference if the Board did in-bank decisions, would it expedite the process?	9
Questions by Senator Romero	
Is the Alternative Dispute Resolution working and should it be expanded to other industries?	10
Questions by Chairperson Burton	
Are there monies put in some piggy-bank for this confirmation that somebody might take from if you don't water the lawn?	11
Witnesses in Support:	
MARC MARCUS, California Applicant Attorneys Association	11
DOUG KIM, Consumer Attorneys of California	11
Motion to Confirm	12
Committee Action	12
JOAN M. WILSON, Director California State Lottery	12
Statement of Support by Senator Polanco	12
Statement of Support by Senator Soto	12
Opening Statement by Ms. Wilson	15

INDEX CONTINUED

	Page
Questions by Chairperson Burton	
What do you mean by making it an entertainment?	16
Are there demographics to how you advertise	17
Did you have a position on Senator Vincent's Bill?	18
Discussion about Compulsive Gambling	20
Questions by Chairperson Burton	
Do you put out warnings?	20
Questions by Senator Karnette	
What do you think about the fact that 52.7 percent go to prices when it's only supposed to be 50 percent?	21
Questions by Senator Knight	
I'm interested in those warning labels and what you think?	22
Is there a maximum dollar amount that you're proposing to have available for schools?	22
Witnesses in Support:	
JOSE PEREZ, California Hispanic Chambers of Commerce	25
MARC APREA Compaq Computer Corporation Ralph's Grocery Company	26
Motion to Confirm	27
Committee Action	27
Termination of Proceedings	28
Reporter's Certificate	29

PROCEEDINGS

CHAIRPERSON BURTON: Governor's Appointees. Appearing Janice Jamison Murray, Member of the Workers' Compensation Appeals Board.

Hi, how are you doing?

MS. MURRAY: Good afternoon.

Good afternoon, Mr. Chairman and Members of the Rules Committee. It is with great pleasure and honor that I appear before you as a candidate for a Commissioner to the Workers' Compensation Appeals Board. I thank you in advance for your consideration of my appointment.

Prior to my appoint for membership on the WCAB, I was an attorney in the office of Legislative and Intergovernmental Affairs at the Federal Communications Commission. I also served as the Assistant People's Counsel for the District of Columbia, and also in the office of Presidential Personnel during the first administration of President William Clinton.

My experience as an attorney with the FCC, the federal government and as a public advocate has prepared me well for serving as WCAB Commissioner. If confirmed as a member of the WCAB, it would be my goal to hear and decide all cases before the Board consistent with the statutory directives prescribed by this legislature and in a full and fair manner.

Additionally, I will endeavor to properly and honestly apply the appropriate principles of law to the facts of each case, assuring that all parties are provided with due process as required by the law. While understanding and appreciating that the impact that these decisions have on individual lives, I will strive to render determinations in a civil, respectful and thoughtful manner.

I thank you for your time and consideration of my confirmation. I would be happy to answer any questions that you might have this afternoon.

CHAIRPERSON BURTON: Senator Johnson?

SENATOR JOHNSON: No questions, Mr. Chairman.

CHAIRPERSON BURTON: Senator Knight?

SENATOR KNIGHT: No questions.

CHAIRPERSON BURTON: Senator Romero?

SENATOR ROMERO: No questions.

CHAIRPERSON BURTON: Senator Karnette?

SENATOR KARNETTE: No questions.

CHAIRPERSON BURTON: Have you been there long enough to determine whether or not the treating physician's presumption has been effective, not effective or what?

MS. MURRAY: Actually, I have not. I've been there about a week and a half.

CHAIRPERSON BURTON: You have.

MS. MURRAY: Yes.

CHAIRPERSON BURTON: All right. What have you learned in a week and a half?

MS. MURRAY: That there are a lot of cases.

(Laughter.)

SENATOR KNIGHT: Let her go.

(Laughter.)

CHAIRPERSON BURTON: Do you have anybody you'd care to introduce?

MS. MURRAY: There might be one person. My husband is here actually and I'd like to introduce him.

CHAIRPERSON BURTON: He's hiding in the back.

MS. MURRAY: Kevin.

MR. MURRAY: I'm just enjoying the role of supportive spouse.

MS. MURRAY: But I would like to say happy 75th birthday, Senator --

CHAIRPERSON BURTON: It would mean a lot more for you if she was on the Committee.

MS. MURRAY: That's very true.

(Laughter.)

CHAIRPERSON BURTON: Witnesses in support?

SENATOR JOHNSON: Wish me a happy father's day.

CHAIRPERSON BURTON: Witnesses in support?

MR. MARCUS: Mark Marcus, California Applicant Attorneys Association. We are pleased to support the candidacy of Ms. Jamison Murray. She has fine credentials. We do have a lot of cases as she said and we're looking forward to her skill and expertise in resolving them.

MR. KIM: Doug Kim with Green and Azevedo and on behalf of the Consumer Attorneys of California, we're also in support.

MR. ASSAEAI: Mel Assaeai for the California Association of Urban League Executives. We're very pleased and proud to support her candidacy. We think she's eminently well qualified and that she may be the first African American appointed to the Committee. We are very supportive.

CHAIRPERSON BURTON: Any witnesses in opposition?

SENATOR KARNETTE: Move it.

CHAIRPERSON BURTON: Senator Figueroa, on this or something else?

SENATOR FIGUEROA: On this. As someone who has worked in the workers compensation area for 20 years, you have Ms. Murray's resume in front of you and you know her educational attainment, but I have known her for a number of years now and --

CHAIRPERSON BURTON: Traveling companions?

SENATOR FIGUEROA: Yes, sir.

CHAIRPERSON BURTON: All right.

SENATOR FIGUEROA: Amongst other things. And have met --

MS. MURRAY: You aren't going to elaborate?

SENATOR FIGUEROA: No, I'm not going to, elaborate, because that will spoil your presentation.

SENATOR KNIGHT: We maybe ought to open it up for questioning again.

(Laughter.)

SENATOR FIGUEROA: I just wanted to tell you, that this young woman is very knowledgeable, compassionate, understands the issues of injured workers, not just what is written in our law books, but understands the complications and the thoroughness that has to be investigated in some of these issues, and I would highly recommend her.

CHAIRPERSON BURTON: Any in opposition?

I think it was moved by Senator Knight, was it?

SECRETARY COMMITTEE WEBB: Senator Karnette.

CHAIRPERSON BURTON: Either way.

Call the roll.

COMMITTEE SECRETARY WEB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEBB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEB: Knight aye.

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEB: Romero aye.

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEB: Johnson aye.

Senator Burton?

CHAIRPERSON BURTON: Aye.

COMMITTEE SECRETARY WEB: Burton aye.

CHAIRPERSON BURTON: Congratulations, Janice.

(Applause.)

CHAIRPERSON BURTON: William K. O'Brien.

MR. O'BRIEN: Mr. Chairman, Senators, I've been told that I should make a slight introduction as to who I am. I've met with some of the senators and they know a little bit.

I'm a retired trial lawyer. I was a trial lawyer for over 30 years. I represented both plaintiffs and defendants. And prior to that time, I worked as a hearing representative for Employers' Mutual, defending workers' comp cases. I haven't done any comp for 30 years except

for the last seven months, where I have been sitting as a member of the WCAB learning something, hopefully, and grateful for being there.

That's all.

CHAIRPERSON BURTON: Do you have anybody to introduce?

MR. O'BRIEN: I have my wife Ming Chang O'Brien, who's here to support me. And Chairman Merle Rabine, who is the Chairman of the Commission.

CHAIRPERSON BURTON: Have you been there long enough to get a point of view on the treating physician presumption, whether it's been effective, not effective or --

MR. O'BRIEN: Yes, I have. I know that the treating physician presumption came up in legislation that arose, I think, in 1989. And it was introduced in a way or as a reason for avoiding a lot of difficult situations, which arose out of treatment mills and legal mills, particularly in southern California, that it attempted to put some order in the process.

However, I am sorry about offering any personal opinion on legislation, because --

CHAIRPERSON BURTON: Feel free.

MR. O'BRIEN: -- of where I am.

(Laughter.)

MR. O'BRIEN: The problem that I see is that it's turned into a game of gotcha, and that the applicant's counsel and defense counsel play with Section 4600, 4601 and 4602 of the Labor Code in such a way that it becomes a chess game and increases litigation.

I'm sure that it helps solve the problem of fraud and also of overtreating and overlitigating. But at the same time, it's intricately technical and causes problems as a result in terms of the amount of cases that we see.

SENATOR KARNETTE: Senator Burton, and I don't --

CHAIRPERSON BURTON: How about can I --

SENATOR KARNETTE: I want to know what he means, exactly by presumption, I don't understand that phrase.

CHAIRPERSON BURTON: What presumption means?

SENATOR KARNETTE: Yeah, well, I hear it a lot, but I really don't know what treating physician presumption really means.

MR. O'BRIEN: It's my understanding, under the Labor Code, that the defendant gets the opportunity to control medical treatment for the first 30 days subsequent to an industrial injury. And subsequent to that time, the injured worker has a move that he or she can make to get another physician. And it is that that leads to the game.

SENATOR KARNETTE: Okay.

CHAIRPERSON BURTON: What would you do about --

do you have much of a backlog?

MR. O'BRIEN: We don't have a backlog, but we handle over 350 cases a month. And at the present time there are five Commissioners and that leaves about 15 or 20 minutes per case and some of the them are four feet thick.

CHAIRPERSON BURTON: Okay. And that's five out of seven, there's two vacancies?

MR. O'BRIEN: Yes.

CHAIRPERSON BURTON: Would it make any difference if the Board did more in-bank decisions would that expedite, slow it down or not make any difference?

MR. O'BRIEN: Well, that's very interesting. I am such a neophyte, that I dare not offer an opinion.

However, Merle Rabine --

CHAIRPERSON BURTON: Compared to Mrs. Murray, seven months versus seven days.

(Laughter.)

MR. O'BRIEN: Mr. Rabine, our Chairman, was President of the Applicant's Association and has an exquisite knowledge of the Labor Code and the workers' compensation area and has attempted to respond to problems that he has seen raised over a consistent period of time that have remained unanswered.

And he, therefore, has developed a policy where

important issues are considered on bank and he has published or he has seen that six on-bank opinions have been published since I've been there over seven months.

And the Applicant's Association and defense bar has indicated that they are grateful for those on-bank opinions.

CHAIRPERSON BURTON: Senator Johnson?

SENATOR JOHNSON: No questions.

CHAIRPERSON BURTON: Senator Karnette?

SENATOR KARNETTE: No.

CHAIRPERSON BURTON: Senator Knight?

SENATOR KNIGHT: No questions.

CHAIRPERSON BURTON: Senator Romero?

SENATOR ROMERO: Thanks. I'd just like to hear your thoughts on the alternative dispute resolution process, if you think it's working, and if it should be expanded to other industries as well.

MR. O'BRIEN: It's might understanding that by that statute, the alternative resolution process arises under four separate scenarios automatically. The first is coverage. I'm not aware offhand of what the next three are.

My general impression is that so few of these cases are resolved under the ADR situation that it almost makes no difference. Now, that's from someone who's only

served for seven months, but I think perhaps one half of one percent maximum are resolved by ADR.

SENATOR ROMERO: Okay.

CHAIRPERSON BURTON: Were there any monies put away in a piggy-bank for this confirmation that somebody might take from you if you don't water the lawn?

MR. O'BRIEN: If there were, I would have trusted my wife with them.

(Laughter.)

CHAIRPERSON BURTON: Inside joke.

SENATOR KNIGHT: I was going to say, I didn't get the question.

CHAIRPERSON BURTON: You'll get it. I explain it to you in camera and in bank.

Witnesses in support?

MR. MARCUS: Mark Marcus, the California Applicant Attorneys Association. We are pleased to support Commissioner O'Brien's candidacy. Unlike our prior candidate, he has been on the job seven months. In those seven months, I've had the privilege of reviewing a number of his decisions. I think they are fare, well reasoned, well thoughtout and I think he's an asset to the Commission.

MR. KIM: Doug Kim with Green and Azevedo on behalf of the Consumer Attorneys and we're also in

support.

CHAIRPERSON BURTON: Anyone in opposition?

Yes, sir.

Oh, different person.

(Laughter.)

CHAIRPERSON BURTON: Okay. Move the nomination.

COMMITTEE SECRETARY WEB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEB: Knight aye.

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEB: Romero aye.

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEB: Johnson aye.

Senator Burton?

CHAIRPERSON BURTON: Aye.

COMMITTEE SECRETARY WEB: Burton aye.

CHAIRPERSON BURTON: Congratulations, Bill.

(Applause.)

CHAIRPERSON BURTON: Joan Wilson, Director of the State Lottery.

SENATOR POLANCO: Mr. Chairman and members, if you'd permit me to introduce Ms. Wilson. On a personal note, we go back about 20, 25 years. She was working at that point in time with 7/11 with the Southland Corporation. Her involvement then was with the Mexican/American Grocers Association. As you know, she has been a very nonpartisan bipartisan kind of person, having been appointed by President Reagan to a prestigious post as an advisor to the President's physical fitness.

She also was responsible working with Dick Floyd as it related to the issue of the tax on the snack. She took a lead role in repealing and moving in the direction to repeal that. The issue of selling alcohol and/or tobacco to teenagers was a great concern in her role at the time with 7/11. It was through her efforts that she led the fight to create the color coding license that can bring easy identification to individuals who are coming to try to buy or purchase alcohol and/or tobacco.

I think she's done a wonderful job in the short period of time that she has served. She's very civic minded. She reaches out. She comes from the retail area. Certainly, retail sales are important that bring money to the lottery, that bring money to schools. I'm here to ask that you give her your support and move her confirmation forward to the Senate for an appropriate vote.

CHAIRPERSON BURTON: Senator Birthday.

(Laughter.)

SENATOR SOTO: Thank you very much. Yes, I also have the honor of being here and speaking in favor of Ms. Joan Wilson. I've only known her a short time, perhaps almost two years in the time that I've been up here, and I've become well enough acquainted with her to know that the lottery has surely taken a different course and become a lot more successful in doing the job that I really was, I guess, elected to do.

Joan Wilson, in my estimation, has a terrific track record in having worked with a community and what Senator Polanco just elaborated on, and I think that with her leadership now we've turned, I think, reorganization of the entire lottery system to the point where now it's really making money and doing the things that it should do.

Her leadership, which will be ending on June 30th, and I think she's worked there almost a year now, that will have the single largest year in the California lottery history in terms of lottery proceeds under her direction. And I think that speaks well for her correction and leadership.

And I can go on talking about Joan Wilson, because in the short time that I've known here, I've known

her to be very, very effective, a high energy individual who has a strong desire to run the lottery with utmost efficiency, and she really wants to provide as much revenue as possible for us to be able to provide it for our educational system, and I request your favorable consideration of Joan Wilson.

Thank you very much.

MS. WILSON: Thank you both.

Mr. Chairman and Members of the Committee, they've pretty much said everything I was going to say, but I was with 7/11 for 28 years. And of those 28 years, the 7/11 stores were the largest key account for the lottery, with over 1,400 locations in California, which they are still the largest key account, because most of them do sell lottery products.

I come to this job with a lot of experience and knowledge with the California lottery. I've dealt with them every day since their inception, 15 years ago because everything that happened with the lottery in the State of California went through my office, so I was as very much aware, when I came here ten months ago, some of the problems that were facing the retailers on the outside.

I've tried to correct a lot of those problems to increase sales and make it easier for them to handle that product to make more money for education.

And as Senator Soto said, this is the first year that we have reached $2.8 billion in sales with $1 billion to go to education this year. And I realize that that's only a small part of the education budget, but $1 billion is a lot of money, and it's the first year that we have done it. And with that, I would like to continue trying to improve the lottery and make it more of an entertainment industry rather than something it was voted in by the people and try to manage it and do the best we can for the people of California.

So with that, I would like to continue on with the lottery, if you see fit to give me the confirmation that makes it possible.

And with that, I guess if you have any questions, I'd be happy to answer them.

CHAIRPERSON BURTON: What do you mean by making it an entertainment?

MS. WILSON: Well, it seems to me that the lottery has been kind of a closed group for a long time, and people perceive it as a gambling industry more so --

CHAIRPERSON BURTON: How could they possibly do that?

(Laughter.)

MS. WILSON: Well, because of the connotation of selling tickets or --

CHAIRPERSON BURTON: I mean that's what it is. I'm not for it or against it.

MS. WILSON: Well, that's true, but we also kind of looked at it as kind of a fun thing, and to play responsibly with buying tickets and we'd like to promote more of it along that way than, you know, it being gambling.

CHAIRPERSON BURTON: Well, one of the criticisms of lottery before there was a lottery was the fact that in all probability it was the people who could least afford to be blowing money would be blowing money. And 7/11 stores, at least in the area I live in, are all basically convenience in low-income neighborhoods, where I live. I can't speak --

MS. WILSON: Where you live.

CHAIRPERSON BURTON: I can't speak -- so it basically -- and it would just seem to me that, and I'm not criticizing Southland, but after seeing some of the ways they were trying to open stores in San Francisco, I wondered why they could stay in businesses and it turned our for awhile, they got sold -- they didn't.

But it would just seem that, you know, with the advertising, are there any demographic, you know, audiences that you go to, because I think, you know, people with more money are going to spend it, you know,

somewhere else. And I guess this has taken over for the people that used to go to the church halls and play, you know, a lot of Bingo.

Well, I mean that's just something I worry about. And I know that the lottery did give like, which is sort of chump change, but you did it, a $60,000 contract to put in a hot line for gambling problems. And according to the people involved is that the calls, the hot line calls, went up significantly because of what the Commission did. So I think that's, you know, that's a good thing.

And I guess lastly there's a bill going through or was going through by -- whose?

MS. WILSON: Senator Vincent.

CHAIRPERSON BURTON: Yeah. Did you guys have a position up, down or sideways?

MS. WILSON: We didn't take a position on it, but we would have benefited from it, certainly, if it had gone through, because it would have gave us more prize money.

Could I answer some of the questions?

CHAIRPERSON BURTON: Well, they're just more comments than questions.

MS. WILSON: Well, first of all, being from 7/11, we didn't target low-income areas to build stores.

CHAIRPERSON BURTON: Well, you don't have a lot of 7/11s in Beverly Hills or Pacific Heights. You have

them in the Haight, in the Western area.

MS. WILSON: And a lot of that had to do with the price of property, as we know, working for a corporation that is in business to make money.

Speaking to our advertising, we advertise on TV and we do it to the general public, so it isn't targeting any one area.

We do not do direct mailers, which targets specific areas. We don't do that. So we do do it in several different languages, because, again, we want to make sure that everyone does get the message with our advertising. So with that, we do, but no direct mailing.

And as far as compulsive gambling, I have been working with Mr. Tucker. And you're right, we gave actually $65,000 this year was targeted for them, because we're locked in with how much we can give because that's Education's money.

But I did check with Oregon and a few other states that give several million dollars, and they take it out of their educational fund, which we can't do here, but we can help him by, I just recently gave them an office at the lottery building, when they're up here and they need to do work or use the phone or secretarial help or whatever we can do there. I've also offered to work with him on other organizations, such as horse racing, card

clubs, so that they also can pay their fair share to help with this problem.

The lottery players have a very small problem of compulsive gambling, where horse racing and card clubs have more, but it's still a problem. We have the brochure, which we printed and sent out, and I've offered that to all of the other organizations. They can use the same brochure, just put their name on it. The one thing that is needed is a bill that says it's mandatory that you display information on compulsive gambling. We have nothing in place in this State.

I worked with the State of Nevada on compulsive gambling and they do have legislation --

CHAIRPERSON BURTON: What about on like the lottery machines or in the stores?

SENATOR JOHNSON: Prop 65 type warnings.

MS. WILSON: Yeah, so that, you know, if they need a brochure, they could get it in any place that has anything to do with gaming, you know, horse racing or whatever, because they don't have to display anything. So I do believe that there's a piece of legislation needed for that.

So with that, I've been there ten months and I will continue to work with them on this problem.

CHAIRPERSON BURTON: Senator Johnson.

SENATOR JOHNSON: No questions.

CHAIRPERSON BURTON: Senator Karnette?

SENATOR KARNETTE: I have something that I mentioned when you were in my office. When Mr. Barker was here we talked about the fact that 52.5 percent of the proceeds went to prizes. But the way I understand the initiative, only 50 percent can go to prizes, and now it's 52.7 percent, and we got into a little discussion about whether or not it was allowable to do that. And that bothers me a little bit, because anything you make over any savings that are in administration are supposed to go to education is my understanding.

MS. WILSON: Right. And since we did have this discussion, if it's okay with the Chair, I would like to bring our person up that's in charge of finances. He was the finance director when this took place. Because as I told you, this was under Director Popejoy when this happened, and he as lot more information, maybe could make it a little clearer than the discussion we had this morning. So with your permission, I would like --

SENATOR JOHNSON: Senator Karnette, unless this is something you're really eager to pursue, I mean, we have the nominee before us. And if she's not, you know, prepared to personally answer questions, maybe that's something you can take up with her staff at a future time.

SENATOR KARNETTE: I'll be happy to do that, Senator Johnson. I just wanted to point it out, because it's gone up a little bit from 52.5 to 52.7.

SENATOR JOHNSON: Thank you.

Senator Knight, questions?

SENATOR KNIGHT: Thank you, Mr. Chairman.

I'm interested in those warnings you're going to put out. They're great you know. I bought a hammer the other day and there were three warnings on the hammer, one on the handle, one on the shaft and one on the head. And they make a whole hell of a lot of sense.

SENATOR JOHNSON: And he still has a band-aid on his thumb.

(Laughter.)

SENATOR KNIGHT: That's right. They're useless, useless as a whistle on a plow. Secondly, --

Yeah, whistle on a plow, haven't you heard that one?

SENATOR KARNETTE: No, that's a new one.

SENATOR JOHNSON: Let me make a note of that.

(Laughter.)

SENATOR KNIGHT: Well, they're useless.

Secondly, what's the objective of the lottery? Is there a maximum dollar amount that you're proposing to have available to schools or is there some level of

gambling that would be satisfactory and you would try and hold some level?

MS. WILSON: No, 34 percent of every dollar --

SENATOR KNIGHT: No, the maximum dollars that you're taking in?

Obviously, you've taken in more dollars in the last year since you've been there than they have in the years previously, so that means that you're increasing the dollars. What is your objective and how high do you want to go?

MS. WILSON: Well, again, every dollar that we take in, they still get 34 percent, but, you mean, for compulsive gambling?

SENATOR KNIGHT: Yeah, well, you've got to have gamblers to buy lottery tickets, whether -- I don't care what you call them.

MS. WILSON: You mean to give to the compulsive gambling organization?

SENATOR KNIGHT: Oh, no.

MS. WILSON: I'm not following you then.

SENATOR KNIGHT: You're a business you say.

MS. WILSON: Right.

SENATOR KNIGHT: Okay. What is your objective next year as far as a dollar amount?

MS. WILSON: Oh, what we project in sales?

SENATOR KNIGHT: Yeah.

MS. WILSON: $2.85 billion.

SENATOR KNIGHT: Okay. And you had what this year?

MS. WILSON: 2.8.

SENATOR KNIGHT: And you want to go to 2.85 so what's the year after that, 2.9?

MS. WILSON: I don't know. We haven't talked about that yet.

SENATOR JOHNSON: I think the thrust of Senator Knight's question is how much is enough? How high is high? And would there come a point in time where you've taken enough money in a given year from the lottery that you discontinue the advertising and the outreach and say that's enough?

MS. WILSON: Well, I really can't answer that question. It's kind of like you speculate as to what it will be. And I don't believe I've been there long enough to speculate how high is high or if it ever gets, because I do know --

SENATOR KNIGHT: Well, what you're telling me is it's never going to get there.

MS. WILSON: Well, I don't know, it could, I guess, but I wouldn't know.

SENATOR JOHNSON: Senator Romero.

SENATOR ROMERO: Do you have any special recommendations for Wednesday's big lotto by chance?

(Laughter.)

MS. WILSON: Well --

SENATOR ROMERO: For entertainment purposes only.

SENATOR JOHNSON: We're going to move into executive session before any such --

(Laughter.)

SENATOR ROMERO: No questions.

SENATOR JOHNSON: All right.

Witnesses in support, briefly?

MR. PEREZ: Jose Perez, representing the California Hispanic Chambers of Commerce. We know that the Governor a couple of weeks ago set a goal to do 25 percent procurement for small business owners throughout the State out of its total procurement dollars. And we were reviewing the lottery's record, and they're pretty close. They're about 24 percent.

We think Ms. Wilson is going to continue that effort. She understands the value of diversity and we think she's a good choice for this position.

Thank you.

SENATOR JOHNSON: Thank you, sir.

MR. LeBAS: My name is Al LeBas. I'm the Executive Director of the California Peace Officers

Memorial Foundation. I first became acquainted with Joan some seven years ago, when she found out what our commission -- pardon me, what our foundation was all about in support of peace officers who died in the line of duty and their heirs involving minor children. She expressed her compassion in the most meaningful way by influencing 7/11 to come aboard as a major corporate sponsor of our foundation.

I think her concern for young people is a quality that serves her well as the director of the lottery in addition to her many other qualifications both in and around government that we heartily endorse her confirmation.

SENATOR JOHNSON: Thank you, sir.

Next witness.

MR. APREA: Mr. Chair and Members of the Committee, Mark Aprea representing Compaq Computers and Ralph's Grocery Company. I've known Joan Wilson for 15 years. We were both working for the Southland Corporation at the time. And I know of no one who is a more tireless worker, who is more dedicated to the success of the lottery, and who would do a better job on behalf of the State. And so I whole heartedly urge your support of her confirmation.

SENATOR JOHNSON: Thank you, sir.

Witnesses in opposition?

Witnesses in opposition?

Ms. Wilson, do you have anyone present, family members?

MS. WILSON: No, I don't.

SENATOR JOHNSON: All right. What's the pleasure of the Committee?

CHAIRPERSON BURTON: Move it.

SENATOR JOHNSON: Secretary call the role.

COMMITTEE SECRETARY WEB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEB: Knight aye.

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEB: Romero aye.

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEB: Johnson aye.

Senator Burton?

CHAIRPERSON BURTON: Aye.

COMMITTEE SECRETARY WEB: Burton aye.

CHAIRPERSON BURTON: Congratulations.

(Applause.)

MS. WILSON: Thank you very much.

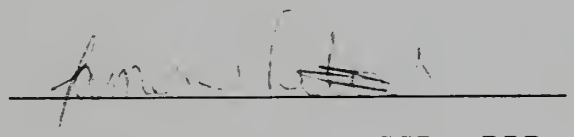
CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing Senate Rules Committee meeting was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of July, 2001.



JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
License No. 10063

432-R
Additional copies of this publication may be purchased for $3.00 per copy
(includes shipping and handling) plus current California sales tax.

Senate Publications
1020 N Street, Room B-53
Sacramento, CA 95814
(916) 327-2155

Make checks payable to SENATE RULES COMMITTEE.
Please include Stock Number 432-R when ordering.

R9
2001
no. 24

CA
Legislature

HEARING

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

DOCUMENTS DEPT.

SEP - 4 2001

SAN FRANCISCO
PUBLIC LIBRARY

STATE CAPITOL
ROOM 3191
SACRAMENTO, CALIFORNIA

MONDAY, JUNE 25, 2001
1:30 P.M.

SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 3191

SACRAMENTO, CALIFORNIA

MONDAY, JUNE 25, 2001

1:30 P.M.

REPORTED BY:

JAMES F. PETERS, CSR, RPR
CERTIFIED SHORTHAND REPORTER
LICENSE NUMBER 10063

APPEARANCES

MEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to Senator Johnson

TIM SHELLEY, Consultant to Senator Karnette

CHRIS BURNS, Consultant to Senator Knight

RYAN SHERMAN, Consultant to Senator Romero

ALSO PRESENT

BETH CAPELL,
Health Access California

JARVIO A. GREVIOUS, Chief Deputy Director,
Department of Social Services

MYESHIA GRICE,
California Youth Connection

WILLIAM J. KEESE, Member
State Energy Resources and Conservation
and Development Commission

APPEARANCES CONTINUED

ALSO PRESENT CONTINUED

ANGELA MORA, Patient Advocate
Department of Managed Care

JERRY ROSE, Director
Yolo County, Department of Employment
and Social Services

MARJORIE SWARTZ,
Western Center on Law and Poverty

ALAN WATAHARA
California Children's Lobby

INDEX

	Page
Proceedings	1
Governor's Appointees:	
JARVIO A. GREVIOUS, Chief Deputy Director Department of Social Services	1
Opening Statement by Mr. Grevious	1
Questions by Chairperson Burton	
Is the Administration going to take any steps to try to have continued funding for the TANIF program from the feds?	3
When does TANIF funding from the feds run out?	3
Does your Department handle foster care programming?	4
Has the Department taken any steps to ameliorate the problem specified by the Hoover Report regarding foster kids moving from home to home?	4
What steps are you taking to provide after care for the emancipated youth?	5
Has our State taken advantage of all the federal dollars out there?	7
Statement by Senator Johnson regarding the emancipated youth issue.	8
Statement by Senator Karnette regarding the emancipated youth issue.	9
Statement by Senator Johnson regarding the emancipated youth issue.	10
Statement by Chairperson Burton regarding the emanicpated youth issue.	10

INDEX CONTINUED

	Page
Statement by Senator Johnson regarding the emancipated youth issue.	11
Questions by Senator Romero	
What are you doing to improve the working conditions of home health care workers?	12
Questions by Chairperson Burton	
Who's in charge of your IHSS oversight program?	13
Witnesses in Support:	
JERRY ROSE, Director Yolo County Department of Employment and Social Services	14
MYESHIA GRICE California Youth Connection	15
ALAN WATAHARA California Children's Lobby	15
Motion to Confirm	16
Committee Action	16
WILLIAM J. KEESE, Member State Energy Resources Conservation and Development Commission	17
Questions by Chairperson Burton	
What are the forecasters saying about the natural gas crisis?	17
Have you set aside some strategic reserve?	17
Does the CEC, the PUC and the Oversight Board meet how frequently?	18
How about meeting before a crisis, wouldn't that make sense?	19

INDEX CONTINUED

	Page
Questions by Senator Romero	
Does communication work well like this or would you like a consolidation of some sort?	19
Questions by Senator Karnette	
Explain how new power plants will be using less energy?	20
Motion to confirm	22
Questions by Chairperson Burton	
What are you doing about conservation?	22
What kind of projects are you doing with the $323 million?	22
Do you know about clean diesel?	23
Committee Action	25
ANGELA MORA, Patient Advocate, Department of Managed Care	26
Questions by Chairperson Burton	
How do you see your job?	26
What's your background?	27
How would the public know there's a Patient Advocate out there?	27
Your's is an independent department?	28
How do you coordinate with Health Services and Department of Insurance?	28
Questions by Senator Karnette	
How would my district office know what you're doing?	29

INDEX CONTINUED

	Page
Witnesses in support:	
BETH CAPELL, Health Access California	30
MARJORIE SWARTZ Western Center on Law and Poverty	30
Questions by Chairperson Burton	
Is your media campaign put out to bid?	30
Motion to Confirm	31
Committee Action	31
Termination of Proceedings	32
Reporter's Certificate	

PROCEEDINGS

CHAIRPERSON BURTON: Jarvio A. Grevious, Chief Department of Social Services Director, DSS excuse me if I mispronounced your name. We have your statement of goals for the record, so you could highlight that and be happy to answer any questions.

MR. GREVIOUS: Thank you, Mr. Chairman and members of the Committee. For the record, the name is Jarvio Grevious. I know that it's a little problematic for people running into it the first time, particularly in California.

(Thereupon a brief recess was taken.)

MR. GREVIOUS: Mr. Chairman, your staff asked that I prepare a brief statement of qualifications for the committee. Shall I run through that for you?

CHAIRPERSON BURTON: No, we've got that for the record.

SENATOR JOHNSON: We'd just ask if you would ever pull a stunt like Senator McPherson just did?

(Laughter.)

MR. GREVIOUS: I don't happen to be Scottish, sir.

(Lauhgter.)

SENATOR JOHNSON: Thank you.

CHAIRPERSON BURTON: Just give us a little bit of

your background.

MR. GREVIOUS: Okay. Very well, sir. As I said, my name is Jarvio Grevious. For the past 21 years, I've been privileged to serve in California state service. Roughly eight years of that time I've spent with the Legislative Analyst's Office, so working for you the legislature, advising on a variety of fiscal and policy matters in a variety of policy areas, primarily education, social services and health.

As a result of that, I guess the point I'd like to make is that I do understand the difficulties of the work that you do, and I also understand from the Administration's perspective how we might best interact with you to develop your policy proposals.

Also, as with respect to my administrative experience, I've served for over nine years as the Deputy Director of Administration within my current Department, the Department of Social Services. In that respect, I've had the privilege of working as a principal on a number of major initiatives, including welfare reform, the group home reform provisions of SB 933, and also, most recently, the child support reform, which I believe was in 1999.

So I've worked closely with your staff to develop, and in many cases, implement various aspects of these initiatives.

CHAIRPERSON BURTON: Let me ask a couple of questions.

MR. GREVIOUS: Sure.

SENATOR JOHNSON: Good idea, Mr. Chairman.

CHAIRPERSON BURTON: All right. Is the administration going to take any steps to try to have continued funding for the TANIF program from the feds?

MR. GREVIOUS: Oh, yes, absolutely. We're intimately involved in the reauthorization discussions that are taking place or have been taking place over the past year. We expect those discussions to continue over the next year.

CHAIRPERSON BURTON: When does TANIF funding from the feds run out?

MR. GREVIOUS: The authorization for the program will terminate on September 30th of 2002.

CHAIRPERSON BURTON: Well, they don't have a hell of a lot of time then.

MR. GREVIOUS: That's correct. I believe the congressional discussions on it will start next spring is my understanding. We have some more minor hearings -- in fact, we have a staff member going back on the 27th, so it's this Wednesday, to testify before a Food Stamps Subcommittee.

As you know, the food stamps program is also up

for reauthorization at the same time. I mean, this is an issue, Senator, that we fully expect to develop some positions on with respect to the issues surrounding under spending and simplification in the food stamps program, the continued funding at the current level, we hope, for the TANIF program, and we fully expect to have significant -- substantial discussions with the members of the Legislature as well as your staffs.

CHAIRPERSON BURTON: Does your department do the where we see foster care program?

MR. GREVIOUS: Yes, sir.

CHAIRPERSON BURTON: And are you familiar with the Hoover Report on foster care about -- they have many criticisms, but one of the biggest was that kids would just be bounced, you know, from home to home to home to home to home never getting any roots, never settling down. Has the Department done anything, taken any steps to try to ameliorate that problem?

MR. GREVIOUS: Yes, sir, I believe that report was from about two years ago, if I recall.

CHAIRPERSON BURTON: Right.

MR. GREVIOUS: The stability of -- the permanence of placements for foster children is a priority for us. Specifically, what we've done in that record is to -- one of the things that we've done is to encourage the placing

agencies to make greater use of the child welfare services case management system.

One of the things that that system will allow is to have the placing agencies capture that health and educational status of the children in question, so that foster parents, other placement providers when they accept the child can better know what the status of the child is and what their particular needs are.

The other thing that we've don't is work closely with the placing agencies to encourage better assessments of the childrens' needs upfront before they're placed. We believe that to the extent that their needs can be asserted upfront, there is less -- we can lessen the chance for the placements to break up.

CHAIRPERSON BURTON: And what steps are you taking to provide after care for, you know, the emancipated foster youth?

MR. GREVIOUS: We have done several things in that regard in the last two years. Providing for the services necessary to help transition foster youth at the age of 18 from our system to independence is a high priority for us.

In the last several years we have, at the behest of the youth themselves, found that the provision of transitional housing for this particular population is an

issue. We've taken some steps to address that.

In the past year's budget, we had included $10 million, as you might recall, Senator, in the Department of Housing and Community Development for the development of supported housing for these children. That money is matched on a four-to-one basis, so it effectively is about $50 million worth of resources.

That's a small step, but in the right direction. We've done that. We've also created or established regional forums to get state and local housing officials together with our Social Services agencies so they can put together an effective proposal to draw down that funding.

In addition to that, in the past year, we have included three and a half million dollars in the budget for stipends that can be made available for emancipated foster youth to pay for things such as textbooks, transportation to and from school, employment services things of that nature.

And also in the past year, too, we've increased pursuant to the Chafee federal legislation we've made Medi-Cal health care coverage available for foster care children from the age of 18 to 21. And we've also expanded, I believe effectively, doubled the size of the independent living program, so that that service is also available to these youths up to the age of 21.

That's some of what we've done. There's a great deal that remains to be done.

CHAIRPERSON BURTON: Has there ever been a study to see what happens to these kids -- I guess, it would be interesting to see what happened to them before and what happened with implementation of these programs?

MR. GREVIOUS: That is an excellent question and we do not have solid evaluations of what is the --

CHAIRPERSON BURTON: Do you have anecdotal stuff?

MR. GREVIOUS: I'm sure that we do, Senator. I don't have them at hand with me today, but that is an area that I want to make a priority.

CHAIRPERSON BURTON: Well, they ought to do that, because I know when I was very surprised -- to show you how interesting my life is. One day about a year ago or more I was watching Cspan and they had a big -- we had the big reauthorization or authorization program for foster care in the Congress, and it expanded the program, provided more money to states, and I mean it was like about a, you know, 384 to 20 bill which showed a tremendous bipartisan support for it, which meant it was, you know, a very popular program.

And I'm just wondering has our State taken advantage of every possible federal dollar that was made

available through that bill?

MR. GREVIOUS: Yeah, Senator, I'm sure that we have, but I'd like to go back and maybe assert that for you.

CHAIRPERSON BURTON: Senator Johnson?

SENATOR JOHNSON: Thank you. Let me say, first of all, I think any Governor has the right to make the appointments that he or she wishes, but there is literally no subject that gets me as angry as foster care. And I have found some of your answers, for me personally, and I know other members of the Committee feel differently, but I find to be less than satisfactory.

I don't think it's a step in the right direction to be dealing with the emancipated kids and continuing a system of dependency. It is a confession of failure of the system as it exists today that at age 18 with all the supervision that they have received from government officials that they're not prepared at age 18 to be fully emancipated. They can vote, you know. Literally, no subject gets me as angry as the failure of that foster care system, and I do agree with Senator Burton that this is something that people feel very strongly about across party lines.

And I feel that our system today is an absolute disgrace, top to bottom, and I just wanted you to know

that I feel that strongly about it.

MR. GREVIOUS: Senator, I am absolutely willing to work with you on any specific proposals with you or your staff with respect to improving the system. We're quite serious -- we are aware of the problems that it has, and we're absolutely committed to making whatever improvements we can.

CHAIRPERSON BURTON: Senator Knight?

SENATOR KNIGHT: No questions.

CHAIRPERSON BURTON: Senator Karnette?

SENATOR KARNETTE: I'd just like to say something, though, a little bit in disagreement with what Senator Johnson said. I agree that people should be able to do -- make their own decisions at 18, but how many of our 18 year olds could get into a college with nobody helping them or even get a job.

And I've seen this a great deal. And I think it's not so much that they don't want to, especially if their foster kids. I've taught foster children and sometimes they get bounced from one place to another and they just need some guidance. It's not always money --

MR. GREVIOUS: Absolutely.

SENATOR KARNETTE: -- or some place to live. Some transition, and I agree they shouldn't need a lot of help, but they do need some.

CHAIRPERSON BURTON: Thank you.

SENATOR JOHNSON: Not to belabor the point.

(Laughter.)

SENATOR JOHNSON: But I'm going to belabor the point. It is a confession of failure of the existing system that those kids aren't able to survive on their own, that we've got to continue this dependency.

CHAIRPERSON BURTON: Well, if I could just jump in here.

(Laughter.)

SENATOR JOHNSON: You're the Chairman, you can jump in any time you want.

CHAIRPERSON BURTON: You know, my folks didn't kick me out of the house at 18. I didn't kick my daughter out of the house at 18. And I mean I had a better shot at going in than foster kids. I think very few, saving except for Kobe Bryant, kids at the age of 18, no matter whether they're foster kids or not are really ready.

And I don't -- I mean, I think that the program is infinitely flawed. And if anybody ever, you know, wants to find out how much, is read that Little Hoover Milton Marks Commission Report, or is it the Milton Marks Little Hoover Commission report.

But, you know, there is a problem, but basically I don't know of any kids that are ready to be dumped out

at 18 unless they're extraordinary, without a little bit of a hand, but I think one of the problems is that if they weren't prepared at all from whatever age to the age of 18, then even this transitional housing stuff or whatever won't work. But I mean, I think we're in more or less agreement about the basic problem of it, but again I don't know of any kids that are ready to just be dumped out at 18.

SENATOR JOHNSON: There are kids, but I guess I'd prefer to concentrate on what we agree on and do something to deal with that. The system and how we treat these kids up to 18 is a damn disgrace, and it really needs a clean sheet of paper and starting it over again and doing it right.

And to say that it's a step in the right direction to simply add on to that, it seems to me is an acceptance of the existing failure. And, again, there is literally nothing that we do in government that I feel more strongly about than this. And it was the nominee's response to the -- or saying that that was moving in the right direction. It's adding on to a failed system. It's putting another bell and whistle on something that really needs to step back to square one with a clean sheet of paper.

Thank you for your indulgence, Mr. Chairman.

CHAIRPERSON BURTON: Senator Romero?

SENATOR ROMERO: Thank you.

Let me ask a question about home health care workers. In the state of California, of course, we've created public authorities. And to my knowledge, things have worked in different ways in different parts of the State.

In Los Angeles County, for example, I attended a briefing not too long ago. And I was very dismayed to learn that, you know, the agency is doing all the right things. The money is being sent. It gets to LA County, but rather than going to support and assist home health care workers in the way that it was intended to, it gets redirected.

How does your agency oversee this? What are you doing? Are you aware of it? And what can you do to make sure that the money that is directed does not get redirected away from improving and enhancing the working conditions of home health care workers?

MR. GREVIOUS: Senator, I wish I could respond to that, but if you're referring -- we are responsible for the in-home supportive services program, which provides people that provide home maker and chore serves, so are you referring to that same program?

SENATOR ROMERO: Yes, um-hmm.

MR. GREVIOUS: You know, as I understand how -- and I may need to research your issue, because I don't want to misspeak to it.

CHAIRPERSON BURTON: Talking about IHSS.

SENATOR ROMERO: Yes, and LA County in particular. Money gets forwarded, so it gets forwarded, but how does the agency oversee what happens once it gets to the County, where at the LA County level it gets sent in different directions everywhere from, at least, where I thought it was going?

MR. GREVIOUS: To be honest with you, I'm not aware of that. I haven't been aware of that problem occurring. I would be very pleased to look into that and get back to you on that.

CHAIRPERSON BURTON: Who's in charge of your IHSS oversight program there, do you know?

MR. GREVIOUS: The specific deputy director, sir?

CHAIRPERSON BURTON: Well, whoever.

MR. GREVIOUS: Well, our department is in charge of the in-home supportive services.

CHAIRPERSON BURTON: I know that. You ought to go back and find out, because that is a very -- it's a very big issue for many of us. If you get a good IHSS program to keep people in the home out of a nursing home, we're saving money and all that. But what we do is we put

money into the program for that purpose, one, and the locals take the money to counter this general fund and use it any way they want, and I think it would just be helpful for me who it was that sort of oversees the program.

MR. GREVIOUS: Senator, I'd be happy to personally look into that and get back to Senator Romero.

CHAIRPERSON BURTON: Did you have any family here with you?

MR. GREVIOUS: No, sir, not today.

CHAIRPERSON BURTON: Witnesses in support? Briefly.

MR. ROSE: Briefly. Good afternoon, Chairman Burton and members of the Senate. Jerry Rose. I'm the Director of Employment and Social Services for Yolo County. And previous to that appointment I was Assistant Director to Riverside County. Both the counties are proud to be leaders in helping people attain self sufficiency.

If there's one word that comes to mind when I think of Mr. Grevious, I've worked with him for the last seven to eight years, it's of a solver, a solution maker. A number of problems being on the receiving end, out in the local area of the policy implementation he spoke about earlier, it's not hard to imagine that a lot of differences of opinion may arise in the various jurisdictions.

And we've always known Mr. Grevious to be a person that looks for problem solving rather than problem making, and we appreciate those efforts and support the appointment.

MS. GRICE: Hi, my name is Myeshia Grice. I'm coming from the California Youth Connection. And as you were saying earlier, I think that this gentleman really understands how dysfunctional the system is. And with being on the stakeholders committee, he not only listens to our concerns, but he actually takes into consideration and tries to implement some of the things that we're saying.

So I did have something written up, but I don't think that it's necessary. I grew up in the system myself. And then to see someone that was so quiet at first, but then to see how much he's a mover and a shaker within the system, I think that he's the best person because who's going to hold the people accountable for who's providing the services to the children and family.

These are the most vulnerable children and families that you're dealing with. And I think that he's the best person to do it.

Thank you.

MR. WATAHARA: Alan Watahara, president and general counsel for the California Children's Lobby. We

share the Committee's concern and we are in enthusiastic support of Mr. Grevious with this appointment.

CHAIRPERSON BURTON: Right. Thank you.

Any witnesses in opposition?

Move the nomination.

Call the roll.

COMMITTEE SECRETARY WEB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEB: Knight aye.

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEB: Romero aye.

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEB: Johnson aye.

Senator Burton?

CHAIRPERSON BURTON: Aye.

COMMITTEE SECRETARY WEB: Burton aye.

CHAIRPERSON BURTON: Congratulations, sir.

(Applause.)

CHAIRPERSON BURTON: William J. Keese, Energy.

MR. KEESE: Good afternoon, Mr. Chairman.

CHAIRPERSON BURTON: Good afternoon.

What are the energy forecasters saying about what the future of the natural gas crisis and what the problems might be, do you have any idea, Bill?

MR. KEESE: Actually, what we have -- the way we got into the problem is because everybody predicted natural gas prices last year were going down. And as they went up, few people bought and put into storage.

We had the problem, and that has convinced people now that we must put it in. We've had a reasonably temperate year so far this year. We're putting a lot of gas into storage. We have a number of projects that are underway. One of the new pipelines will come on by the end of this month -- is projected to come on by the end of this month, and we will have an ability to move more gas in.

We would suspect in about a year, we will have stabilization in the natural gas market.

CHAIRPERSON BURTON: Do you have, like, have you set aside some kind of strategic reserve?

MR. KEESE: In natural gas we have a significant -- we can't bring into the State on a current basis what we need. We have a number of underground storage facilities and we are adding to that.

CHAIRPERSON BURTON: But you don't have anything

to put them in?

MR. KEESE: We're putting it in right now as fast as we can. As I understood, I'll use Friday's numbers, if you will, in the southern California area, we have 60 percent of the storage filled and in the PG&E territory, we have about 70 percent of it filled to capacity.

CHAIRPERSON BURTON: Well, I thought we weren't getting enough in to store it, I thought I heard you say that.

MR. KEESE: We're bringing it in now as fast as we can. A year ago we got into the problem because nobody bought it in.

CHAIRPERSON KEESE: Okay. We've got you. We've got the PUC. We've got the oversight board. We had the PX. I guess, do we still have the PX, are they still floating around?

MR KEESE: It's in bankruptcy.

CHAIRPERSON BURTON: How do you guys -- what do you do together, do you meet every month, meet every week, talk to each other, don't talk to each other, coordinate, what?

MR. KEESE: On an institutional level, we do not meet. On a team basis through the Governor's office in approaching the problems we have now, we have a generation team that meets every day that includes members and key

staff of all of those agencies. We have a transmission team that meets regularly. We have a natural gas team that meets regularly.

So key leaders of all of those entities are meeting on a virtually daily basis to handle the crisis situation we have here.

CHAIRPERSON BURTON: Well, how about meeting before there is a crisis, wouldn't that make some sense?

MR. KEESE: That would make wonderful sense.

CHAIRPERSON BURTON: Let's see, can you meet before there is a crisis when there already is a crisis, I would ask you, sir?

SENATOR JOHNSON: Well, you could meet before the next crisis surely.

(Laughter.)

CHAIRPERSON BURTON: Okay, all right.

SENATOR KNIGHT: That wouldn't fit.

CHAIRPERSON BURTON: Senator Johnson?

SENATOR JOHNSON: No questions, Mr. Chairman.

CHAIRPERSON BURTON: Senator Romero?

SENATOR ROMERO: I would just follow up on that question earlier about communication. There's different agencies and entities, do you think it works well like this or would you envision some type of consolidation into one agency to address all issues of energy?

MR. KEESE: I don't think anybody believes it's working well. Some consolidation is necessary. Whether it's consolidation into one agency, I'm not sure. If you take and look at the Public Utilities Commission, for instance, they set rates for telephone, for water, for railroads for a number of things that are not energy. They also do natural gas and electricity. So the total merger perhaps is not appropriate.

The Energy Commission deals with energy issues. I would say there's more of a need to look at the diversified responsibility that falls in the ISO Oversight Board/Energy Commission area, and perhaps to some of the duplicated functions.

We have a major energy efficiency program. The PUC has a major energy efficiency program. We site power plants and their associated transmission lines. The PUC has a program to site transmission lines. There may be some aspects that should be placed somewhere more appropriate.

CHAIRPERSON BURTON: Senator Knight?

SENATOR KNIGHT: No questions.

CHAIRPERSON BURTON: Senator Karnette?

SENATOR KARNETTE: One comment about gas, the new plants that are coming on line are going to be fueled by natural gas. And I understand that ultimately the new

plants will be using less natural gas than the old ones, would you explain?

MR. KEESE: Correct. We have currently sited over 10,500 megawatts. Let me put it in perspective. That's 21 major power plants, all of which are natural gas combined cycle plants. But these plants run at efficiencies approaching 60 percent. And the plants that they will displace were in the low 30s in percent.

So our actual statistics and our projections from 2002 to 2005 show that the amount of natural gas that will be used for electricity generation in California will go down. It will not go up, even though we're adding plants, because of the efficiencies of the new plants.

SENATOR KARNETTE: And as I commented in my office earlier, I think if we could get a little more art work into the power lines, make them look like the Eiffel Tower, we might not have people complaining so much.

MR. KEESE: We would hope so. I will say --

I will say, Senator, we do have some optimism. We are going to have the first major power plant in ten years coming on line this week, the second one on July 2nd and the third one on July 7th.

CHAIRPERSON BURTON: We get that with the Governor's speeches.

(Laughter.)

MR. KEESE: Oh, right.

SENATOR KNIGHT: Move.

CHAIRPERSON BURTON: Senator Karnette, are you finished?

CHAIRPERSON BURTON: I'm finished. What are you guys doing about conservation?

CHAIRPERSON BURTON: We are working extremely actively in, I would say, the energy efficiency side of conservation. We have a number of conservation programs being handled by the Department of General Services for State buildings. We handle all State agencies to get people to conserve.

CHAIRPERSON BURTON: Weren't you given the thing under the Sher bill?

MR. KEESE: We were given approximately $383 million seven weeks ago. We have put $200 million of that out on the street already in projects.

CHAIRPERSON BURTON: To do what? What kind of projects?

MR. KEESE: We have lighting projects, where we're changing out lighting and using say one-third of the amount of power. We have positive control of air-conditioning and lighting systems, so that you can optimize the amount of power that's being used or reduce the amount of power when the price gets too high.

We have biomass power projects that are on its way. We have biogas. We have wind projects that are --

CHAIRPERSON BURTON: Are you familiar -- did somebody bring, and if they didn't I'll get it, to you're attention, but someone has a concept, as strange as it might be, but actually clean diesel. Do you know what I'm talking about?

MR. KEESE: Yes. That's more in the transportation phase, but we are looking at sulfur-free diesel that offers tremendous potentials because you can clean it up.

CHAIRPERSON BURTON: This was also beyond transportation. I think it was actually -- it would be used in some generators. I'll get you -- if you haven't got it, I'll get you the stuff for Professor Larson there.

My staff, I think Brian Kelly, has been in touch with you about there is a potential program to have small, basically either batteries, fuel cells or something for backups at traffic lights that basically cost about, I'd say, almost probably one-tenth of what the current process is that could be used if there ever were blackouts or things of this sort to keep traffic lights that are self-contained going. And I know he's been in touch with somebody at the Department of Energy, but by the look in your face, you have no idea what I'm talking about.

MR. KEESE: He's not been in touch with me. I am familiar with it. I would say we have had a very aggressive --

CHAIRPERSON BURTON: He's got a bill ready to move, and we're waiting to get it at the office from you guys.

MR. KEESE: We have had a very aggressive program to replace all incandescent light bulbs, the read screens --

CHAIRPERSON BURTON: This doesn't deal with traffic lights.

MR. KEESE: This is not dealing with traffic lights.

CHAIRPERSON BURTON: No, mine is dealing with traffic lights.

SENATOR JOHNSON: They are related, though.

MR. KEESE: Our program is reducing the amount of power that the traffic lights take by 90 percent, and therefore, they can be supported by battery backup.

CHAIRPERSON BURTON: As long as we've got them here, call my office and tell them to get Brian Kelly down here.

MR. KEESE: Between the number of programs, the CalTrans has ten, your commission has an --

CHAIRPERSON BURTON: Called LED light.

SENATOR JOHNSON: But they operate --

MR. KEESE: They use ten percent of the power as standard lights. They're much brighter.

SENATOR JOHNSON: It relates in the sense that the stand-by batteries can operate at intersections far longer than if they have the --

CHAIRPERSON BURTON: We've got two choices, we can withhold the vote he gets here. You can promise us that you'll stick around, Bill.

MR. KEESE: I will promise you, I will stick around.

SENATOR JOHNSON: Move the nomination.

CHAIRPERSON BURTON: Witnesses in support?

Witnesses in opposition?

Have you got any family here besides Larson?

Is he here to make sure you don't make a mistake?

MR. KEESE: Yes, Senator.

CHAIRPERSON BURTON: How would you grade him there, professor?

Moved by Senator Johnson.

Call the roll.

COMMITTEE SECRETARY WEB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEB: Knight aye.

Senator Romero?

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEB: Johnson aye.

Senator Burton?

CHAIRPERSON BURTON: Aye.

COMMITTEE SECRETARY WEB: Burton aye.

CHAIRPERSON BURTON: Leave the roll open for Senator Romero.

Congratulations, Bill.

Thank you.

Angela Mora, patient advocate, Department of Managed Care.

Hi.

MS. MORA: I have a written statement. Would you like me to read it or would like my to --

CHAIRPERSON BURTON: You can just kind of wing it for a few minutes. Tell us you how see your job?

MR. MORA: How I see my job? I think it's got wonderful potential.

CHAIRPERSON BURTON: Okay.

(Laughter.)

MS. MORA: For the patients, and the HMOs in

California.

CHAIRPERSON BURTON: What's your background?

MS. MORA: My background, I've been a community worker for about 30 years. I have a Masters in education. I've been a psycho therapist and have run community based projects for about the last 20 years. I've been involved in the health field and mental health specifically for the last, also, close to 30 years.

CHAIRPERSON BURTON: Okay. How would any patients know or how would the public know that there's like a patient advocate who might be there?

MS. MORA: We have the duty to outreach to over 22 million enrollees. We are in the process of developing a media campaign to outreach to as many enrollees as we can throughout the State. We have several programs that are already in place to travel throughout the State to inform individuals about the rights under California laws, and also about how to access the Department of Managed Health Care's HMO help center, to receive assistance if they have any problems with their HMOs.

So basically we have, what we call, a mobile information center, which is not a vehicle. It's a group of individuals from my office who attend several different community events and talk to consumers, mainly throughout those vehicles.

We also have a pharmacy initiative that we're going to be working with. We are already working with pharmaceutical changes to utilize pharmacies as outlets for information and educational materials to enrollees also throughout the State.

CHAIRPERSON BURTON: All right. You're an independent department, right? They moved it from corporations over to an independent department, right?

MS. MORA: That's right. That's the Department of Managed Health. My office is the Office of the Patient Advocate is part of the Business Transportation and Housing Agency and is right now within the Department of Managed Health Care.

CHAIRPERSON BURTON: It's in business?

MS. MORA: It's the Department of Managed Health Care and the Office of the Patient Advocate are part of the Business Transportation and Housing Agency.

CHAIRPERSON BURTON: It seems like an odd place for it.

How do you coordinate all right, there's Health Services, Department of Insurance and you, where do you fit?

MS. MORA: I think there's a lot of great potential for collaboration. We must work together. We are coordinating with some of the main key players within

the Department of Health Services and DOI as well, so that we can discuss the different issues affecting HMO enrollees, mainly related to accessing information and assistance to receive assistance to take care of problems they might be having with their HMOs and to educate.

CHAIRPERSON BURTON: Senator Johnson?

SENATOR JOHNSON: No questions.

CHAIRPERSON BURTON: Senator Knight?

SENATOR KNIGHT: No questions.

CHAIRPERSON BURTON: Senator Karnette?

SENATOR KARNETTE: How do you -- how would my district or our district offices know what you're doing? What's your plan for that?

MS. MORA: What I'm doing is I'm visiting -- I wrote letters to all legislators and I'm sure we sent a letter to your office as well. And I'm meeting personally with Legislators to let them know of our mobile information center.

SENATOR KARNETTE: Excuse me, but do you have people on your staff -- see, my staff they don't tell me everything, they don't have time.

MS. MORA: I have 13 individuals. And they are part of the HMO mobile information center, which we can take into your community.

SENATOR KARNETTE: My staff knows that, right?

MS. MORA: Yes.

CHAIRPERSON BURTON: Well, it's probably better a question put to your staff.

SENATOR KARNETTE: Yeah, I think so, too.

(Laughter.)

SENATOR KARNETTE: Right, I agree with that, but I'm saying it doesn't help if the people in the districts who call our offices don't know what you do, we can't tell people that you're there. And so I think it's important that all the district offices know what's going on.

MS. MORA: Absolutely, I agree with you.

CHAIRPERSON BURTON: Senator Romero?

SENATOR ROMERO: No questions.

CHAIRPERSON BURTON: Senator Romero?

SENATOR ROMERO: No questions.

CHAIRPERSON BURTON: Witnesses in support?

MS. CAPELL: Beth Capell on behalf of Health Access California. We are among the folks that help to fight for HMO reform. We're pleased to be here today in support of Angela Mora's appointment as the first patient advocate in California.

CHAIRPERSON BURTON: Marjorie Swartz.

MS. SWARTZ: You're in luck today, Mr. Chairman, I'm losing my voice.

(Laughter.)

CHAIRPERSON BURTON: Not as much luck as Richie.

MS. SWARTZ: Marjorie Swartz, representing the Western Center on Law and Poverty. And we are here in strong support of Ms. Mora's confirmation today. She has a budget to do outreach. It is not a huge budget, but we think that they have chosen to spend it very wisely. We think that there is evidence that the calls, consumer calls, to the Department are growing at a rapid rate. And it indicates that they're doing an excellent job of outreaching to the consumers of California.

CHAIRPERSON BURTON: When you say you have a media campaign, is that like put out to bid or sole source or what?

MS. MORA: We put it out for RFP, yes. We just hire a contractor.

CHAIRPERSON BURTON: Okay. Witnesses in opposition?

Move the nomination.

Call the roll.

COMMITTEE SECRETARY WEB: Senator Karnette?

SENATOR KARNETTE: Aye.

COMMITTEE SECRETARY WEB: Karnette aye.

Senator Knight?

SENATOR KNIGHT: Aye.

COMMITTEE SECRETARY WEB: Knight aye.

Senator Romero?

SENATOR ROMERO: Aye.

COMMITTEE SECRETARY WEB: Romero aye.

Senator Johnson?

SENATOR JOHNSON: Aye.

COMMITTEE SECRETARY WEB: Johnson aye.

Senator Burton?

CHAIRPERSON BURTON: Aye.

COMMITTEE SECRETARY WEB: Burton aye.

CHAIRPERSON BURTON: Congratulations. Thank you very much.

COMMITTEE SECRETARY WEB: Senator Romero, would you like to be added to Mr. Keese's confirmation?

SENATOR ROMERO: Yes, please.

CHAIRPERSON BURTON: Okay.

CERTIFICATE OF REPORTER

I, JAMES F. PETERS, a Certified Shorthand Reporter of the State of California, and Registered Professional Reporter, do hereby certify:

That I am a disinterested person herein; that the foregoing California Senate Rules Committee meeting was reported in shorthand by me, James F. Peters, a Certified Shorthand Reporter of the State of California, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said meeting nor in any way interested in the outcome of said meeting.

IN WITNESS WHEREOF, I have hereunto set my hand this 16th day of July, 2001.

JAMES F. PETERS, CSR, RPR
Certified Shorthand Reporter
License No. 10063

433-R
Additional copies of this publication may be purchased for $3.00 per copy
(includes shipping and handling) plus current California sales tax.

Senate Publications
1020 N Street, Room B-53
Sacramento, CA 95814
(916) 327-2155

Make checks payable to SENATE RULES COMMITTEE.
Please include Stock Number 433-R when ordering.